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Commonwealth of Massachusetts

Department of Revenue

# Guide to Filing Your 1997 Massachusetts Income Taxes

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TAX  
1997  
LAWS



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*The purpose of this publication is to provide general information about Massachusetts tax laws and Department of Revenue policies and procedures. It is not designed to address all questions in detail. Nothing contained herein supersedes, alters or otherwise changes any provision of the Massachusetts General Laws, Massachusetts Department of Revenue Regulations, Department Rulings or any other sources of the law.*

# 1997 Massachusetts Tax Change Summary

## Temporary Increase to Personal Exemptions

Recent legislation provides for a tax reduction to be implemented by a temporary increase in the personal exemption amounts which each taxpayer is entitled to claim. The exemption amount is determined by the taxpayer's filing status. The following increases in the personal exemptions are applicable **only** for the 1997 tax year: joint filers increased to \$5,260 from \$4,400; heads of household increased to \$4,065 from \$3,400; and single or married filing separately increased to \$2,630 from \$2,200.

## No Tax Status/Limited Income Credit Thresholds

Because the income level for No Tax Status for joint filers and heads of household is based in part on the personal exemption amounts, the threshold for No Tax Status for these taxpayers has been temporarily increased to reflect increases to the personal exemptions. The Limited Income Credit calculation is similarly affected.

### Joint Filers

No tax is imposed if the Massachusetts adjusted gross income (AGI) does not exceed \$12,860 plus \$1,000 per dependent. Joint filers are eligible for the Limited Income Credit if Mass. AGI does not exceed \$22,505 plus \$1,750 per dependent.

### Heads of Household

No tax is imposed if Mass. AGI does not exceed \$11,665 plus \$1,000 per dependent. Heads of household are eligible for the Limited Income Credit if Mass. AGI does not exceed \$20,414 plus \$1,750 per dependent.

## Income Thresholds for No Tax Status and the Limited Income Credit — Head of Household and Married Filing a Joint Return

Number of dependents	Filing Status:			
	Head of household. If AGI is less than or equal to:		Married filing a joint return. If AGI is less than or equal to:	
0	\$11,665	\$20,414	\$12,860	\$22,505
1	12,665	22,164	13,860	24,255
2	13,665	23,914	14,860	26,005
3	14,665	25,664	15,860	27,755
4	15,665	27,414	16,860	29,505
5	16,665	29,164	17,860	31,255
6	17,665	30,914	18,860	33,005
	you qualify for No Tax Status	you may qualify for the Limited Income Credit	you qualify for No Tax Status	you may qualify for the Limited Income Credit

If the number of dependents is more than 6, add \$1,000 per dependent to the blue column for No Tax Status, or \$1,750 per dependent to the black column for the Limited Income Credit.

### Single Filers

No Tax Status for single filers and married individuals filing separately is unaffected by the temporary increase in the personal exemption amount. For single filers, no tax is imposed if the taxpayer's Mass. AGI does not exceed \$8,000. Single filers are eligible for the Limited Income Credit if Mass. AGI does not exceed \$14,000.

**Dependent Member of Household Under Age 12 Deduction  
Amount Increased to \$1,200**

A \$1,200 deduction is allowed against 5.95% adjusted gross income to an individual who maintains a household that includes a child under age 12 on December 31, 1997. The child must qualify as a dependent for federal income tax purposes. You must be either single, head of household or married filing jointly. The deduction is \$1,200 regardless of the number of dependents under age 12. Under prior law the amount of this deduction was \$600.

**Tax Lowered on Capital Gains/Change in Tax Rates**

Legislation passed in 1994 reduced the tax on gain from the sale of capital assets held for more than one year. For purposes of the law, holding periods will be deemed not to have begun prior to January 1, 1995. The lower tax rates, ranging from 5% to 0%, will be gradually phased in over six years as holding periods increase from the deemed commencement date. The law expands the definition of a capital asset and allocates capital gains and losses into either 12% income or long-term capital gain income based on the capital asset's character and holding period. There are special rules for collectibles which are capital assets such as antiques, gems, and works of art. A credit, which may be applied against long-term capital gain income and capital gains taxed at 12%, is generated from certain long-term capital losses.

The new law defines "capital gain income" as gain from the sale or exchange of a capital asset. The definition of "capital asset" has been expanded to include: (1) an asset which is a capital asset for federal income tax purposes or (2) property that is used in a trade or business within the meaning of IRC section 1231(b) without regard to the holding period as defined in said section 1231(b).

Applicable to tax years beginning on or after January 1, 1996, reduced tax rates on long-term capital gains will be phased in year by year over a six-year period. Since holding periods will be deemed not to have begun prior to January 1, 1995, for tax year 1997 the longest possible holding period is 3 years. The applicable tax rate is 5% if the capital asset was held for more than one year but not more than two years, and 4% if the capital asset was held more than two years. For each subsequent tax year, the longest possible holding period increases by one year, and lower tax rates apply accordingly. By tax year 2001 when the law is fully operational, gains on the sale of capital assets held more than one year will be taxed at the following rates: assets held for more than one year but less than or equal to two years will be taxed at 5%; more than two years but less than or equal to three years will be taxed at 4%; more than three years but less than or equal to four years will be taxed at 3%; more than four years but less than or equal to five years will be taxed at 2%; and more than five years but less than or equal to six years will be taxed at 1%. Capital assets held for more than 6 years will not be subject to tax.

As a result of the above changes, the various classes of Mass. gross income are now allocated among three categories:

- Gains on the sale of capital assets (excluding collectibles) held for more than one year but not more than two years are taxed as 5% income, those held for more than two years are taxed as 4% income in tax year 1997. The law sets forth a calculation to generate a credit when long-term losses are in excess of long-term gains. This credit may be applied against capital gains taxed at 12% in the current year and carried forward to be applied against long-term capital gains and capital gains taxed at 12% in subsequent years.
- 12% income continues to include short-term capital gains, dividends, and non-Mass. bank interest, as well as short- and long-term capital gains arising from the sale of collectibles and pre-1996 installment sales classified as capital gain income for Massachusetts purposes. Allowable deductions from 12% income include allowable deductions from your trade or business, losses on the sale of capital assets held for one year or less, a 50% deduction for gains on the sale of collectibles and pre-1996 installment sales classified as capital gain income held for more than one year, and excess exemptions.

- 5.95% income will continue to consist of all income that is not 5% income, 4% income, or 12% income, including such items as wages, pensions, business income, rents, and Massachusetts bank interest.

**Note:** For a detailed explanation of the new law, see Proposed Regulation on Capital Gains and Losses, 830 CMR 62.4.1.

### **College Tuition Deduction**

A deduction is allowed for tuition payments paid by you, for yourself or a dependent, to a qualifying two-or four-year college. The deduction is equal to the amount by which the tuition payments, less any scholarships, grants, or financial aid received, exceed 25% of Massachusetts adjusted gross income (AGI). For further information, see Technical Information Release (TIR) 97-13.

### **Full Employment Credit**

Every employer who participates in the Full Employment Program and continues to employ a participant for at least one full month after any Full Employment Program subsidy for that participant has expired may claim the Full Employment Credit. A qualified employer may claim a credit equal to \$100 per month of eligible employment per participant, with a maximum credit of \$1,200 per participant. Qualified participants and employers are those who participate in the Full Employment Program under the rules of the Department of Transitional Assistance (DTA). A five-year carryover of any unused credit is allowed.

### **Septic Credit**

An owner of residential property located in Massachusetts who occupies the property as his or her principal residence is allowed a credit of a maximum of \$1,500 per taxable year for expenses incurred to comply with the sewer system requirements of Title V as promulgated by the Department of Environmental Protection. The amount of the credit is 40% of the cost up to \$15,000, for design and construction expenses for repair or replacement of a failed cesspool or septic system. The maximum aggregate amount of the credit is \$6,000. A three-year carryover of any unused credit is allowed. See TIR 97-12 for more information.

### **Earned Income Credit**

A refundable earned income credit is available to certain low-income individuals who have earned income and meet federal requirements for the federal earned income credit. The taxpayer must qualify for and claim the federal earned income credit allowed under Internal Revenue Code sec. 32 as amended and in effect for the taxable year. The credit equals 10% of the federal earned income credit amount. If other credits against 5.95% income are used by the taxpayer, the earned income credit is applied last. If the credit exceeds the tax imposed, the taxpayer receives the difference in the form of a refund check (without interest).

### **Military Pensions**

Beginning January 1, 1997 any noncontributory pension income or survivorship benefits received from the U.S.uniformed services (Army, Navy, Marine Corps, Air Force, Coast Guard, commissioned corps of the Public Health Service and National Oceanic and Atmospheric Administration) is exempt from taxation in Massachusetts.

### **Federal Tax Law Changes that Massachusetts Does Not Adopt**

Massachusetts personal income tax law references the Internal Revenue Code (IRC) as amended on January 1, 1988. Therefore, federal tax law changes enacted after that date are not adopted by Massachusetts. Some of these include:

### **Employer-Provided Educational Assistance**

Under a federal provision taxpayers may exclude from income certain employer-provided educational assistance benefits. Taxpayers should not exclude these amounts from their Massachusetts' income.

**Employer Reimbursement for Moving Expenses**

For Massachusetts income tax purposes, all employment related moving expense reimbursements must be included in Massachusetts gross income. This amount, listed in box 13 of Form W-2 and coded with the letter "P," generally should be included in box 17 of Form W-2 as state wages and reported as income.

**Section 179 Expensing Allowance Increased**

For federal tax purposes the Section 179 expensing allowance of \$10,000 has been increased to \$18,000 for property placed in service in 1997. For Massachusetts, Section 179 expense deductions are capped at \$10,000 for 1997.

**Liquidation Payments to Partners**

Special rules regarding liquidation payments to deceased or retired partners for goodwill and unrealized receivables have been repealed under a federal provision. These special rules are still in effect for Massachusetts.

**Amortization of Goodwill and Other Intangibles**

Under a federal provision a 15-year amortization period is allowed for goodwill and other related intangibles, effective for property acquired after August 10, 1993. Massachusetts follows the rules in effect prior to August 10, 1993 regarding the amortization of goodwill and other intangibles.

**Depreciation of Nonresidential Real Property**

Under a federal provision the recovery period for the depreciation of nonresidential real property is increased to 39 years for qualifying property placed in service on or after May 14, 1993. For Massachusetts purposes the recovery period will remain at 31.5 years.

**Business Meals and Entertainment Deductions**

For federal tax purposes the deductible portion of business meals and entertainment expenses has been reduced from 80% to 50%. For Massachusetts purposes, the deductible portion remains at 80%.

**Club Dues and Spousal Travel Expenses**

For federal tax purposes, club dues are no longer allowed as a business deduction. Spouses' and other family members travel expenses have generally been disallowed as a business deduction on the federal level. Massachusetts will continue to allow these deductions.

**Exclusion of Discharge of Indebtedness**

Under a federal provision certain taxpayers may elect to exclude from gross income certain income realized from the discharge of qualified real property business indebtedness. Massachusetts does not allow this exclusion.

**Sale of Your Principal Residence**

Massachusetts does not adopt the new rules for the sale of your home after May 6, 1997. For Massachusetts purposes you are allowed a one-time exclusion of gain on the sale of your principal residence of \$125,000 for taxpayers who are age 55 or over at the date of the sale. The replacement period for gain deferral remains at 24 months.



# Passive Activity Losses

The federal Tax Reform Act of 1986 (TRA '86) added the passive activity loss rules to the Internal Revenue Code for tax years commencing on or after January 1, 1987. Massachusetts adopted these changes for taxable years commencing on or after January 1, 1988.

Federal income tax limitations and phase-out amounts for passive activity loss deductions and rental real estate activities apply for Massachusetts income tax purposes to resident, part-year resident, and nonresident taxpayers. However, because of certain differences between federal and Massachusetts income categories and filing requirements, certain taxpayers may be required to adjust their federal tax amounts to reflect Massachusetts differences.

## Calculation of Passive Activity Losses for Massachusetts Purposes

### Full-year Residents

The Massachusetts treatment of passive activity losses for Massachusetts residents is the same as the federal treatment. Allowable losses are the same losses that are allowed on federal Form 8582, line 11, to the extent that the losses were not deducted on the taxpayers' Massachusetts returns in prior taxable years. See the section titled "No Carryforward of 1987 Passive Losses." To the extent there are applicable adjustments for Massachusetts differences, taxpayers must calculate allowable losses on a pro forma federal Form 8582. Losses disallowed for federal purposes are likewise disallowed for Massachusetts purposes.

### Nonresidents

For nonresidents, passive activity income and losses which are not attributable to Massachusetts must be taken out of the amounts reported for federal purposes. For Massachusetts purposes, a nonresident must recalculate allowed passive activity losses based upon income or losses from passive activities which generate income subject to tax in Massachusetts. To do so, the taxpayer must complete a pro forma federal Form 8582, using only those amounts from activities which generate income subject to Massachusetts tax.

When completing the pro forma federal Form 8582, the taxpayer must limit the amount of the \$25,000 allowance for rental real estate activities with active participation to the amount which was allowed the taxpayer for federal purposes. For example, if a taxpayer had federal adjusted gross income in excess of \$100,000 which reduced or eliminated the offset allowance under IRC Section 469(i)(3)(A), the taxpayer is limited to the same amount taken on the federal return for Massachusetts purposes.

The following example illustrates how a nonresident calculates passive activity losses for Massachusetts purposes.

#### Example

*During taxable year 1997, Taxpayer Smith, an unmarried full-year nonresident, owned an interest in five passive activities. Taxpayer Smith's federal modified adjusted gross income is below \$100,000. He has no prior year unallowed losses.*

**Activity A** is a limited partnership interest. Smith's distributive share of the net loss for 1997 is \$12,000. None of the loss is attributable to Massachusetts.

**Activity B** is also a limited partnership interest. Smith's distributive share of the net income for 1997 is \$2,000. None of the income is attributable to Massachusetts.

**Activity C** is a general partnership interest which owns rental real estate located in New York. Smith actively participates in the rental real estate activity. Smith's distributive share of the new loss for 1997 is \$10,000, none of which is attributable to Massachusetts.

**Activity D** is a general partnership interest which owns rental real estate located in Massachusetts. Smith actively participates in the rental real estate activity. Smith's distributive share of the net loss for 1997 is \$20,000 for federal and Massachusetts purposes.

**Activity E** is an active participation rental real estate activity. It consists of Property A, located in Massachusetts with a loss of \$10,000, and Property B, located in Vermont with a gain of \$5,000. For federal purposes, Smith's distributive share of the net loss is \$5,000. For Massachusetts purposes, Smith's share of the net loss is \$10,000.

Under the **federal** rules, Smith would compute the following allowed and disallowed losses:

Activity	Inc./Loss Pre-limit	-	Loss Disallowed	=	Inc./Loss Allowed
A	(12,000)		(10,908)		(1,092)*
C	(10,000)		(2,598)		(7,402)*
D	(20,000)		(5,196)		(14,804)*
E	(5,000)		(1,298)		(3,702)*
	(47,000)		(20,000)		(27,000)*

*\*(From Form 8582 Worksheets)*

Only Activities D and E generate income subject to Massachusetts tax. Smith completes a pro forma federal Form 8582 with amounts pertaining only to those activities. After the required calculations, the resulting figures are as follows:

Activity	Inc./Loss Before Limit	-	Loss Disallowed	=	Allowed Loss
D	(20,000)		(3,333)		(16,667)
E	(10,000)		1,667		(8,333)
Total:	(30,000)		(5,000)		(25,000)

Smith has \$25,000 in allowable passive activity losses for Massachusetts purposes for 1997.

### Part-year Residents

Part-year residents who meet threshold income and exemption requirements of MGL Ch. 62C, sec. 6(a) and who change status during a taxable year from resident to nonresident, or from nonresident to resident, must file Form 1-NR/PY. These taxpayers must file for the period of the year during which they were residents and for the period of the year during which they were nonresidents. (MGL Ch. 62C, sec. 6(a); 830 CMR 62.5A1.(7)(d)) Part-year residents must figure passive activity losses separately for their periods of residency and nonresidency.

Assuming that Smith in the example above was a Massachusetts resident for 105 days in tax year 1997, passive activity losses are calculated as follows:

#### (Resident Period)

#### Example

1. Determine the net passive activity income (loss) which a full-year resident would report for federal purposes, with applicable Massachusetts adjustment differences (i.e. \$27,000 allowed passive losses + \$2,000 passive income = \$25,000 total losses).

2. Multiply this amount by number of days as a resident  
365

$$(i.e. \$25,000 \times \frac{105}{365} = \$7,191.78)$$

3. The result is the amount of passive activity loss to which Smith is entitled as a resident.

#### (Nonresident Period)

1. Determine the amount of passive activity loss deduction as if full-year nonresident (i.e. pro forma federal Form 8582, line 11, recalculation showing only those amounts from activities which generate income subject to Massachusetts tax: i.e. \$25,000).

2. Subtract the amount taken as a part-year resident from this amount

$$(\$25,000 - \$7,191.78 = \$17,808.22)$$

3. *Multiply this result by total Mass. losses*  

$$\frac{\text{total federal losses}}{\text{total federal losses}}$$

$$(i.e. \$17,808.22 \times \frac{\$30,000}{\$47,000} = \$11,366.95)$$

4. *The result is the amount of passive activity loss to which Smith is entitled as a nonresident.*

### **Massachusetts Limitation on \$25,000 Offset for Active Participation Rental Real Estate Activities: Married Filing Separately Taxpayers**

As an exception to the general rule, IRC Section 469(i) allows qualifying taxpayers who actively participate in certain rental real estate activities to deduct from nonpassive income up to \$25,000 in losses. Under the federal rules, married persons filing joint returns may deduct up to the full amount if they otherwise meet the requirements of IRC Section 469. Under the federal rules, married taxpayers filing separate returns who live apart during the entire taxable year and who otherwise meet the requirements of IRC Section 469 are eligible to deduct up to one-half of the allowable income and phase-out amounts. Under the federal rules, married taxpayers filing separate federal returns who lived together at any time during the taxable year are not entitled to any offset. IRC Section 469(i)(5).

Massachusetts follows the federal rules for applying the \$25,000 offset for rental real estate activities with active participation. Married taxpayers filing joint Massachusetts returns may deduct up to the full amount if they otherwise meet the requirements of IRC Section 469; married taxpayers filing separate Massachusetts returns who lived apart during the entire taxable year and who otherwise meet the requirements of IRC Section 469 are eligible to deduct up to one-half of the allowable income and phase-out amounts; and married taxpayers filing separate Massachusetts returns who lived together at any time during the taxable year are not entitled to the \$25,000 offset. These rules apply even if the taxpayers were allowed to file joint federal returns but were unable to file joint Massachusetts returns because of different Massachusetts filing requirements.

### **Offsetting Excess Part B Passive Losses Against Part A Income**

Under federal law, no distinction in tax rates exists between Part A taxable income (interest, dividends, short-term capital gains and long-term gains on collectibles) and Part B taxable income (all other income). For federal purposes, passive losses are simply offset against passive income in order to determine net passive gain or loss.

Generally, Massachusetts taxpayers may not use excess Part B (5.95%) deductions to offset Part A (12%) income. However, if a taxpayer files a Massachusetts Schedule C or a Massachusetts Schedule E, such offsets are allowed where two requirements are met. First, the excess Part B deductions must be adjusted gross income deductions allowed under MGL Ch. 62, sec. 2(d). Second, these excess deductions may be used to offset only Part A income which is effectively connected with the active conduct of a trade or business or any Part A income allowed under IRC Section 469(d)(1)(B) to offset losses from passive activities. These rules are illustrated by the following example:

#### **Example**

*Taxpayer Davis, a full year Massachusetts resident, has a limited partnership interest in Activity A, which was sold in 1997. His distributive share of the capital gain is \$20,000. He also has a limited partnership interest in Activity B, from which he received \$15,000 in interest in 1997. He also received \$18,000 in interest in Activity C, which is effectively connected with the active conduct of his trade or business. Additionally, he received \$23,000 in Part A non-Mass. bank interest from a trust fund that is not effectively connected with the active conduct of his trade or business. In all, Davis has \$76,000 of Part A Income, \$35,000 of which is passive income from Activity A and Activity B, and \$18,000 of which is connected with the active conduct of his trade or business.*

Davis also has excess Part B deductions allowed under MGL Ch. 62, sec. 2(d) totaling \$60,000, \$35,000 of which is passive loss that, for federal purposes, is offset by the \$35,000 of passive income under IRC Section 469(d)(1)(B). Davis may use the excess Part B deductions to offset Part A income as follows:

First, Davis may offset \$18,000 in interest connected with the active conduct of his trade or business from Activity C, as well as \$15,000 in interest received from his limited partnership interest in Activity B. See Schedule C-2, lines 7(a) and 7(b). Second, Davis may offset the \$20,000 capital gain from his limited partnership in Activity A. See Schedule C-2, line 8(b). However, Davis may not offset any excess Part B deductions against the \$23,000 interest from the trust fund. Thus, Davis is allowed to offset \$53,000 of his Part A income: \$18,000 in interest effectively connected with the active conduct of a trade or business, and \$35,000 in capital gains and interest which, for federal purposes, is allowed to offset Davis' \$35,000 passive loss under IRC Section 469(d)(1)(B). Davis has \$23,000 in remaining Part A income, taxable at the rate of 12%.

### No Carryforward of 1987 Passive Losses

For federal purposes, for taxable years beginning on or after January 1, 1987, losses disallowed because of the passive loss rules of IRC Section 469 could be carried forward to succeeding taxable years to offset future passive income. Because Massachusetts did not adopt the 1986 federal Tax Reform Act changes until 1988, 1987 passive activity losses, like other losses, were deducted from Massachusetts gross income to reach Massachusetts adjusted gross income. Taxpayers reported the taxable income difference due to the different U.S. and Massachusetts loss rules on the appropriate Massachusetts schedules with the explanation, "Taxable income differences due to different Mass. and U.S. loss rules (net passive activity loss)."

In general, taxpayers should report the same amount of passive losses on their 1997 tax returns as they report on their 1997 U.S. tax returns. Differences in 1987 amounts reported for U.S. and Massachusetts tax purposes should be adjusted for when the property is disposed of or when the federal loss carryover is used. Taxpayers who carry over an amount from 1987 for U.S. tax purposes may not deduct these carryover losses in Massachusetts in later years.

#### Example

In 1987, Taxpayer Jones had \$10,000 of passive losses which, for federal purposes, could not be taken against other income on his U.S. tax return. As a result, Jones carried forward this unused loss to future tax years for federal purposes. In contrast, Jones used this \$10,000 loss to offset his 1987 Massachusetts part B income. During 1997, Taxpayer Jones, a full-year Massachusetts resident disposed of his entire interest in the passive activity in a fully taxable transaction for \$250,000. Jones will report a \$240,000 gain on his 1995 U.S. return — \$250,000 minus the \$10,000 carryover allowed under IRC Section 469(g). However, since taxpayer Jones already reported the \$10,000 loss on the 1987 Massachusetts return, he must report a gain of \$250,000 on his 1997 Massachusetts return.

#### Example

Taxpayer Smith had \$15,000 of passive losses in 1987 which could not be set off against other income on her U.S. return. She carried forward these losses for U.S. tax purposes. However, Smith was able to use these losses in full to offset Part B income on her 1987 Massachusetts return. Smith used this \$15,000 carryover loss for U.S. tax purposes in 1997 to offset \$15,000 in income from a passive activity and must record a U.S./Massachusetts difference of \$15,000 in taxable income since the losses were used in 1987 for Massachusetts tax purposes. Any amount of losses which exceeded your 1987 Part B income on your 1987 Massachusetts return is not available for carryover to Massachusetts returns in later years.



# Differences Between Massachusetts and U.S. Taxable Income

To calculate Massachusetts taxable income, Massachusetts uses your federal gross income, as determined by the U.S. Internal Revenue Code (IRC) in effect on January 1, 1988, as a starting point. As an intermediate step, Massachusetts gross income is reached by modifying, adding or subtracting items to federal gross income. Massachusetts gross income is then classified into three groups:

- 5.95% income, which includes such items as wages, partnership income and trade or business income, taxable pensions, interest from Massachusetts banks, alimony, unemployment compensation, IRA/Keogh distributions and rental income;
- 12% income, which includes such items as dividends, short-term capital gains, long-term gains on collectibles and interest from sources other than Mass. Banks; and
- long-term capital gains except long-term gains on collectibles.

After determining 5.95%, 12% and long-term capital gain gross income, each category is further modified to first reach 5.95%, 12% and long-term capital gain adjusted gross income and, finally, 5.95%, 12% and long-term capital gain taxable income.

## **Gross Income**

Federal gross income provides the starting point for determining taxable Massachusetts income. Your federal gross income includes:

- wages, salaries, tips, bonuses, fees and other compensation;
- taxable pensions and annuities;
- alimony;
- income from a business, profession, partnership, S corporation, trust or estate;
- rental, royalty and REMIC (Real Estate Mortgage Investment Conduit) income;
- unemployment compensation;
- interest and dividends;
- gambling winnings;
- capital gains;
- taxable portions of scholarships and fellowships; and
- any other income not specifically exempt.

Income which is included in federal gross income will be part of your Massachusetts gross income unless it is specifically excluded by some provision of Massachusetts law. Conversely, an item which is not included in federal gross income will not be part of Massachusetts gross income unless it is specifically added by some provision of Massachusetts law.

## **Income to Be Added to Federal Gross Income**

The following income must be added to federal gross income to arrive at Massachusetts gross income. This income is not included in federal gross income, since it is exempt from federal income taxation. Such income is, however, part of Massachusetts gross income, taxable under particular provisions of the Massachusetts General Laws (MGL).

- interest on state and local obligations other than those of Massachusetts or its political subdivisions;
- the amount of income earned by a resident of Massachusetts from foreign employment and excluded from federal gross income;

- the amount of employer-provided educational assistance and legal services excluded from federal gross income;
- voluntary employee contributions made under Section 403(b) of the Internal Revenue Code;
- employee contributions to Massachusetts state and local government pension plans.
- contributions to Savings Incentive Match Plans for Employees (SIMPLE) Accounts;

If you disposed of property during the tax year, MGL Ch. 62, sec. 6F requires that when determining Massachusetts gross income you adjust federal gross income by any differences between the federal and Massachusetts basis of the property. If federal basis exceeds Massachusetts basis, federal gross income must be increased by the difference; conversely, if the Massachusetts basis is greater, federal gross income must be decreased by the difference. For a more detailed discussion of basis rules, see the section titled "Massachusetts Basis Rules," and see TIR 88-7.

### **Items to Be Excluded from Federal Gross Income**

The following items originally included in federal gross income must be subtracted out. Although these items are taxable at the federal level, they are not part of Massachusetts gross income and are exempt from Massachusetts income tax:

- interest on obligations of the United States;
- income received from a trustee or other fiduciary if that income is taxable to the trustee or other fiduciary in Massachusetts;
- dividends from a corporate trust to the extent the dividends are exempt from taxation under MGL Ch. 62, sec. 8;
- income from a contributory retirement plan of the U.S. Government or the Commonwealth of Massachusetts and its political subdivisions;
- noncontributory pension income or survivorship benefits received from the U.S. uniformed services (Army, Navy, Marine Corps, Air Force, Coast Guard, commissioned corps of the Public Health Service and the National Oceanic and Atmospheric Administration);
- distributions from an IRA until previously taxed contributions have been recovered;
- income from Internal Revenue Code Section 403(b) annuities, pensions, etc, until contributions have been recovered; income from a Keogh plan until contributions have been recovered;
- the amount of Social Security benefits included in federal gross income;
- income (including royalty income) from the sale or lease of certain patents approved by the Massachusetts Division of Energy Resources as useful for energy conservation and related purposes. The income may be deducted for a period of five years from the issuance of the patent or approval by the Division of Energy Resources, whichever occurs sooner.

#### **Example**

*Dale's federal gross income is \$25,000. This is the third year Dale has withdrawn \$2,000 from an IRA to which he contributed a total of \$5,000. Dale has several U.S. government bonds which pay a total of \$500 interest annually, as well as state and local bonds from states other than Massachusetts which pay a total of \$1,000 interest.*

*Dale's Massachusetts gross income is \$24,500, determined as follows:*

*From federal gross income, he subtracts items not taxed in Massachusetts:*

<i>Federal gross income</i>	<i>\$25,000</i>
<i>IRA distributions</i>	<i>(1,000)</i>
<i>U.S. bond interest</i>	<i>(500)</i>
	<i>\$23,500</i>

Dale adds the following, not taxed federally:

Other state bond interest	\$1,000
Total	\$24,500

Proceeds from an IRA are exempt under Massachusetts law only until the contributions are recovered. Dale has now withdrawn \$6,000, but his contribution was only \$5,000. Dale must, therefore, include the difference in his Massachusetts gross income. Since his federal gross income includes the entire \$2,000 taken from the IRA, Dale deducts \$1,000 from federal gross income, leaving \$1,000 as part of Massachusetts gross income. Dale also subtracts the U.S. bond interest, because it is not taxable in Massachusetts. Dale adds the \$1,000 in bond interest from other states because it is taxable in Massachusetts, but not included in federal gross income.

## Massachusetts Adjusted Gross Income

To calculate Massachusetts adjusted gross income, Massachusetts gross income is divided into three classes: 5.95% income, 12% income and long-term capital gain income.

### 5.95% Adjusted Gross Income

5.95% adjusted gross income is determined by modifying 5.95% gross income. Massachusetts allows many of the deductions from federal gross income allowed by Sections 62 and 404 of the Internal Revenue Code but omits some and alters others.

Massachusetts adopts a modified version of the federal deduction for unreimbursed employee business expenses. The deduction for unreimbursed travel and transportation expenses incurred by any employee, and unreimbursed gifts, entertainment and other employee business expenses incurred by employees who solicit business for an employer away from the employer's place of business are allowed only if you itemize deductions on your federal income tax return. The deduction is allowed only for amounts that, taken together with other miscellaneous itemized deductions, exceed 2% of federal adjusted gross income. The amount you are reimbursed for business expenses continues to be an allowable deduction, regardless of whether you are required to substantiate or return any unused portion of this amount. The following federal deductions are not allowed in calculating Massachusetts adjusted gross income:

- deductions not related to Massachusetts gross income;
- the deduction allowed by IRC Section 62(a)(5) relating to life tenants and income beneficiaries of property to the extent a trust or estate taxable under this section is allowed the deduction;
- net operating loss deductions allowed by IRC Section 172;
- the deduction allowed by IRC Section 404 for Keogh plan payments made by self-employed persons;
- the deduction allowed by IRC Section 1379(b)(3) (relating to amounts not received as benefits from certain qualified pension plans);
- the deduction (if any) allowed by IRC Section 219 for contributions to an IRA;
- the deduction allowed by IRC Section 402(e)(3) of the ordinary income portion of a lump-sum distribution to the extent included in gross income;
- the deduction allowed by IRC Section 164(f) equal to 50% of the self-employment tax; and
- the deduction allowed by IRC Section 162(h) for certain travel expenses of state legislators away from home.

### Example

Ellen deposits the maximum allowable amount in her IRA and takes a deduction for that amount on her federal income tax return. The amount deducted under federal law must be included for Massachusetts tax purposes. When Ellen withdraws her IRA proceeds, they will be free from Massachusetts taxes until Ellen has recovered her contributions. The same result follows when a Keogh plan rather than an IRA is involved.

**Example**

Marvin works for a law firm and incurs unreimbursed travel expenses while performing services for the firm away from home, including expenses for food and lodgings. Marvin may deduct these expenses, provided he itemizes on his federal return and provided the expenses, taken together with other miscellaneous itemized deductions, exceed 2% of his federal adjusted gross income.

**Example**

Harry and Bill work for Sky Corporation. Harry works as a clerical employee and Bill works as a traveling salesman. During the year, each takes a refresher course in selling techniques. Harry may not deduct the cost of this course; Bill may, provided he itemizes deductions on his federal tax return and if his deductible business expenses, taken together with other miscellaneous itemized deductions, exceed 2% of his federal adjusted gross income.

**12% Adjusted Gross Income**

12% adjusted gross income is determined by modifying 12% gross income. Massachusetts generally does not follow federal rules here. Among the deductions Massachusetts allows in calculating 12% adjusted gross income are:

- Any excess of the deductions allowed in reaching 5.95% adjusted gross income (AGI deductions). This deduction is allowed to the extent the 12% income is either effectively connected with a trade or business of the taxpayer or allowed under IRC Section 469(d)(1)(B) to offset losses from passive activities. (Massachusetts does not follow the federal rule that allows net operating loss carryovers.)
- 50% of long-term gains on collectibles and pre-1996 installment sales; however, the allowable deduction must be determined after the gain is reduced by any short-term capital losses.

**Example**

Jason has 5.95% gross income of \$8,000, and Massachusetts AGI deductions of \$10,000. Jason may deduct \$2,000 from his 12% income, but only if the 12% income is effectively connected with Jason's trade or business or allowed under IRC Section 469(d)(1)(B) to offset losses from passive activities.

**Example**

Laura has a \$1,000 long-term gain on collectibles and a \$500 short-term loss. She may deduct 50% of her long-term gain on collectibles after subtracting her short-term losses. Laura's deduction for 50% of the long-term gain on collectibles is \$250 (\$1,000 long-term gain on collectibles reduced by \$500 in short-term loss and multiplied by 50%).

**Taxable Income**

In arriving at taxable 5.95%, 12% and long-term capital gain income, Massachusetts does not allow the federal exemptions or most of the federal itemized deductions, e.g., the deduction for home mortgage interest or the deduction for charitable contributions. An exception is made for medical expenses, which Massachusetts allows as an exemption. Massachusetts has its own specific exemptions and deductions, including those listed below.

**5.95% Income****Deductions**

- contributions up to \$2,000 per taxpayer paid to FICA (Social Security and Medicare) or under the Federal Railroad Retirement Act; or sums deducted from wages as contributions to a pension or annuity fund of the U.S., the Commonwealth or its political subdivisions;
- \$100 of Massachusetts bank interest if filing single, married filing separately or as head of household, or \$200 of such interest if married and filing jointly.
- employment-related expenses paid to someone to care for one or more children under age 15 (or a disabled dependent) — as an alternative, you may deduct one \$1,200 amount if your household contains one or more dependents under age 12; (taxpayers filing as married filing separately may not claim this deduction)
- 50% of the rent for a principal residence in Massachusetts, not to exceed \$2,500 (or \$1,250 if married filing separately); and

- pension income received from another state or its political subdivisions provided that state does not tax such income from Massachusetts or its political subdivisions.

### **Exemptions**

#### *Single or Married Filing Separately or Head of Household:*

1. a personal exemption of \$2,630 if single or married filing separately or \$4,065 if filing as head of household (unlike the federal rules, you are entitled to a personal exemption even if you are claimed as a dependent by another taxpayer);
2. an additional \$2,200 if you were totally blind; and
3. an additional \$700 if you were 65 or older before the close of the taxable year.

#### *Married Filing Jointly:*

1. a total exemption of \$5,260 for you and your spouse;
2. an additional \$2,200 for each spouse who was totally blind; and
3. an additional \$700 if you were 65 or older before the close of the taxable year.

#### *All Taxpayers:*

1. \$1,000 per dependent (as defined in IRC Section 151);
2. an amount equal to the deduction for medical, dental and other expenses allowed under IRC 213 (this deduction may only be claimed if you itemize federally); and
3. fees in excess of three percent of 5.95% adjusted gross income paid to a licensed adoption agency to adopt a minor child.

### **12% Income**

#### **Exemptions**

If your total exemptions from 5.95% income exceed 5.95% income after deductions, you may apply the excess to all 12% income. This exemption is only available to taxpayers filing as single, head of household or married filing a joint return.

### **Long-Term Capital Gain Income**

#### **Exemptions**

If your total exemptions from 5.95% income exceed 5.95% income after deductions and 12% income, you may apply the excess to long-term capital gain income. This exemption is only available to taxpayers filing as single, head of household or married filing a joint return.



# Massachusetts Basis Rules

This section explains the general rules for determining the Massachusetts adjusted basis of property that has been sold or exchanged during the taxable year. You need to know the adjusted basis of such property in order to calculate properly the gain or loss to be reported on your Massachusetts income tax return. For Massachusetts tax purposes, your adjusted basis in property sold or exchanged during the taxable year is calculated by determining your initial Massachusetts basis in the property, and then adding or subtracting any adjustments required under Massachusetts law during the period when the property was held. Because a significant change in Massachusetts personal income tax laws became effective on January 1, 1971, the rules for determining basis are divided into two sections depending on whether the property was acquired before or after that date. **Note:** If you are a nonresident, see the section on "Application to Nonresidents." To make basis calculations, you must know the following:

## For initial basis

- initial U.S. basis in property;
- when the property was acquired (before January 1, 1971 or after December 31, 1970); and
- how the property was acquired (by purchase, taxable or nontaxable exchange, inheritance, gift, etc.)

## For adjusted basis

- what adjustments to the initial basis of the property were required by the provisions of U.S. and Massachusetts law during the period when the property was held (for depreciation, capital improvements, sec. 179 deductions, residential energy credits, S corporation basis adjustment, etc.)

## Sale of Property You Acquired After December 31, 1970

### Massachusetts Initial Basis

The initial basis of property acquired after December 31, 1970 is generally the same under U.S. and Massachusetts rules. In certain cases, however, it will differ. For property acquired after December 31, 1970, from a decedent, as a gift, or in a like-kind exchange or similar transaction where the basis of prior property is used, special rules apply. If your property was acquired under any of these circumstances, refer to Massachusetts General Laws, (MGL), Chapter 62, Section 6F, (b)(2)(A), (B) and (C).

### Massachusetts Adjusted Basis

The adjusted basis of property acquired after December 31, 1970 is generally the same under U.S. and Massachusetts rules. Accordingly, the gain or loss reported on the Massachusetts return is the same as that reported on the U.S. return. However, it will differ where, at any time during the period the property was held, Massachusetts did not follow the U.S. rules regarding the basis of that property.

The relevant provisions of the Massachusetts personal income tax and the Internal Revenue Code coincided precisely only four times since 1970 — in 1971, 1977, 1983 and 1988. In all other years during this period, the Massachusetts income tax was tied to an earlier year's Internal Revenue Code, so that a change or addition to a basis-adjustment provision may have been incorporated for U.S. tax purposes, but not for Massachusetts tax purposes.

The easiest way to see how the Massachusetts adjusted basis rules work is to apply them to examples.

### Example

*Ed and Jane are Massachusetts residents who sold their single-family home on January 1, 1997 for \$200,000. Ed and Jane purchased the property in 1985 for \$100,000 and made \$15,000 in capital improvements over the next ten years. They took no deductions requiring adjustments to basis (such as depreciation) while they owned the house. When Ed and Jane sold the property, their U.S. adjusted basis was \$115,000 (their initial basis of \$100,000 plus capital improvements of \$15,000). Ed and Jane's Massachusetts adjusted basis was also*

\$115,000, because the basis adjustment provisions that applied to this property while they held it were the same for both U.S. and Massachusetts purposes.

**Example**

Larry and Diane are Massachusetts residents who sold rental property on January 1, 1997 for \$200,000. They had purchased the property on January 1, 1985 for \$120,000, of which \$20,000 was for the land value. They had made no improvements to the property while they owned it.

On their U.S. tax returns for 1985–1996, Larry and Diane took depreciation deductions: \$9,000 the first year and a total of \$67,000 for 1986–1996. On their Massachusetts returns for 1985–1996, Larry and Diane also took deductions for depreciation: \$12,000 the first year and a total of \$67,000 for 1986–1996. Massachusetts and U.S. depreciation rules differed in 1985 because Massachusetts followed the Internal Revenue Code in effect on February 1, 1983. Rental property placed in service in accordance with U.S. guidelines as of February 1, 1983 was assigned a 15-year recovery period, compared with the 18-year recovery period under the U.S. guidelines in effect on January 1, 1985. In 1986, however, Massachusetts updated its personal income tax to the Internal Revenue Code in effect on January 1, 1985, and adopted the 18-year recovery period.

When Larry and Diane sold the property, their U.S. adjusted basis was \$44,000 (their initial basis of \$120,000 minus the U.S. depreciation deduction of \$76,000 they took in connection with the property). Larry and Diane's Massachusetts adjusted basis in the rental property was \$41,000 (their initial basis of \$120,000 minus the Massachusetts depreciation deduction of \$79,000 they took in connection with the property).

For U.S. tax purposes, Larry and Diane realized a gain of \$156,000 on the sale (\$200,000 minus \$44,000). For Massachusetts purposes, however, their gain was \$159,000 (\$200,000 minus \$41,000) — \$3,000 more than the gain for U.S. purposes because of the higher depreciation deduction Massachusetts had allowed Larry and Diane in 1985.

## **Sale of Property You Acquired Before January 1, 1971**

For property acquired before January 1, 1971, the Massachusetts initial basis may differ from the U.S. initial basis. If such property had been sold in the course of business on December 31, 1970 (the day before a major change in the Massachusetts law), and a gain would have been subject to Massachusetts tax at that time, then the Massachusetts initial basis for determining gains or losses from a sale of the property in 1996 is calculated as follows:

**Gain** — Massachusetts initial basis for computing gain is the property's adjusted basis on December 31, 1970 under the Massachusetts laws in effect on that date.

**Loss** — Massachusetts initial basis for computing loss is the lower of the property's Massachusetts adjusted basis on December 31, 1970, or its U.S. adjusted basis on that date.

In the case of any other property acquired before January 1, 1971, and sold in 1997, the Mass. initial basis is the same as the U.S. adjusted basis on December 31, 1970, determined without regard to any U.S. adjustment for gift tax paid.

Once you have determined your Massachusetts initial basis in property acquired before January 1, 1971, you calculate your Massachusetts adjusted basis as described in the section on property acquired after December 31, 1970.

**Example**

Jim and Jean are Massachusetts residents who sold rental property on January 1, 1997 for \$150,000. They had purchased the property on December 31, 1967 for \$25,000, of which \$5,000 was for the land value.

For U.S. tax purposes, their initial basis in the property was \$25,000 — the property's cost when purchased. On their U.S. tax returns for 1968–1996, Jim and Jean took depreciation deductions on the property of \$600 each year. Their U.S. depreciation deductions over the period they owned the rental property totaled \$17,400 (\$600 × 29 years). When Jim and Jean sold the rental property, their U.S. adjusted basis was \$7,600 (their initial basis of \$25,000 minus the depreciation deductions of \$17,400).

For Massachusetts tax purposes, Jim and Jean's initial basis in the rental property is the amount their adjusted basis would have been on December 31, 1970 under the basis rules that were then in effect. The Massachusetts basis rules in effect before January 1, 1971 did not allow taxpayers to deduct or adjust basis for depreciation, so that their basis as of December 31, 1970 would have been their cost basis of \$25,000. On their Massachusetts tax returns for 1971–1996, they took depreciation deductions on the rental property of \$600 each year. Their Massachusetts depreciation deductions over the period they owned the rental property totaled \$15,600 ( $\$600 \times 26$  years). When Jim and Jean sold the property in 1997, their Massachusetts adjusted basis was \$9,400 (their initial basis of \$25,000 minus the depreciation deductions of \$15,600).

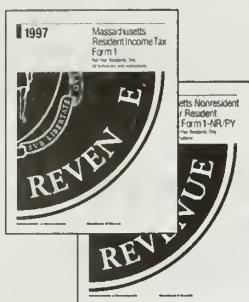
For U.S. tax purposes, Jim and Jean realized a gain in 1997 of \$142,400 (the selling price of \$150,000 minus the adjusted basis of \$7,600). For Massachusetts tax purposes, they realized a gain in 1997 of \$140,000 (the selling price of \$150,000 minus the adjusted basis of \$9,400). Thus, the gain reported on Jim and Jean's 1997 U.S. tax return total \$1,800 more than the gain reported on their 1997 Massachusetts tax return.

### **Sales of Intangible Property**

The steps previously outlined explain the Massachusetts basis rules in the context of sales of tangible property. The same principles would apply to sales of intangible property, such as stock or an interest in a partnership. For additional information on basis adjustments which may be required by a shareholder upon the sale or exchange of Massachusetts S corporation stock, refer to Technical Information Release 88-11 and Massachusetts Regulation 830 CMR 62.17A.1.

### **Application to Nonresidents**

The Massachusetts basis rules apply to nonresidents as well as to Massachusetts residents. Some nonresidents, however, may have sold property in 1997 that did not become subject to taxation under the Massachusetts personal income tax statute (MGL Ch. 62) until some time after the nonresident acquired the property. In such cases, the nonresident determines his or her Massachusetts initial basis as set out in the examples above, but adjusts this initial basis differently. For the period that the income was subject to the Massachusetts personal income tax, the nonresident makes only those basis adjustments that applied in Massachusetts (just as a resident does). But for the period that the property was not subject to the Massachusetts personal income tax, the nonresident adjusts the basis for whatever U.S. provisions were applicable during the period.



# Filing Requirements

## Should I File a Massachusetts Tax Return?

Massachusetts tax law distinguishes between residents and nonresidents. Residents are generally taxed on all their income. Nonresidents are only taxed on their Massachusetts source income.

If you were a resident of Massachusetts and your gross income from all sources was more than \$8,000 in tax year 1997, you are required to file a Massachusetts income tax return. If your gross income was less than \$8,000, it is not necessary for you to file a return. For a detailed discussion on gross income see the section on "Differences Between Massachusetts and U.S. Taxable Income."

If you were a nonresident, but received Massachusetts source income in 1997 in excess of the smaller of \$8,000 or your prorated personal exemption (the amount of your personal exemption multiplied by the ratio of your Massachusetts income to your total income), you must file a Massachusetts Nonresident or Part-Year Resident Income Tax Return, Form 1-NR/PY. At a minimum, this means you must file Form 1-NR/PY if you were a nonresident and you received Massachusetts source income in excess of \$2,630 if single or married filing separately, \$4,065 if head of household, or \$5,260 if married filing jointly.

## May My Spouse and I File Jointly?

Yes. Married taxpayers may usually file jointly. A joint return is allowed even if only one spouse has income. A joint return must be signed by both spouses. Married taxpayers may not file jointly when the spouses have different taxable years for Massachusetts purposes.

### Example

*Joe and Amy were married in June 1997. Joe moved to Massachusetts in June to live with Amy. They would not be allowed to file a joint return because Joe was a Massachusetts resident for only the second half of 1997.*

## What Are the Advantages to Filing a Joint Return?

Married taxpayers who file a joint return are allowed to claim certain exemptions and deductions which married taxpayers filing separate returns may not claim:

- a deduction of one \$1,200 amount for any dependent member of the household under the age of 12 as of December 31, 1997;
- No Tax Status if joint Massachusetts Adjusted Gross Income (Mass. AGI) was \$12,860 or less plus \$1,000 per dependent;
- Limited Income Credit if joint Massachusetts AGI is between \$12,860 and \$22,505 plus \$1,750 per dependent; and
- exemptions from 12% and long-term capital gain income.

## What Form Should I File If I'm a Resident of Massachusetts?

If you were a resident of Massachusetts and your gross income from all sources was more than \$8,000 in tax year 1997, you must file a return. If your gross income was \$8,000 or less, it is not necessary for you to file a return. If your income was \$8,000 or less, you will want to file a return to obtain a refund of any Massachusetts amount withheld from your pay by your employer. If you were a resident of Massachusetts for the full year you must file on Form 1 or if you were selected by DOR you may Telefile.

## What Form Do I File if I'm a Nonresident?

If you were not a resident of Massachusetts but earned Massachusetts source income in excess of the filing threshold, you must file Form 1-NR/PY.

## What Form Do I File if I'm a Part-year Resident?

If you moved into or out of Massachusetts during the taxable year, you are a part-year resident and must file Form 1-NR/PY if you meet the \$8,000 filing threshold for the portion of the year that you were a resident. Part-year residents may not file Form 1.

## What Form Do I File if I Received Mass. Source Income Before Moving Into or After Moving Out of Massachusetts?

If you receive Mass. source income before moving into or after moving out of Massachusetts, you may be one of a small number of people who have to file a Form 1-NR/PY as both a part-year resident and a nonresident. If your Massachusetts gross income exceeds \$8,000 for the year, you must file both as a part-year resident and as a nonresident. You must file Form 1-NR/PY to cover the portion of the year in which you were a Massachusetts resident and for the portion of the year you were a nonresident but had Mass. source income. For a comprehensive discussion on filing Form 1-NR/PY see the section on "Filing as a Part-year Resident When Still Earning Income in Massachusetts."

## What is Mass. Source Income?

Mass. source income is used to describe those types of income which are taxed to a nonresident. A nonresident is subject to tax on items of income derived from or effectively connected with:

- any trade or business carried on in Mass.;
- employment carried on in Mass.;
- participation in any lottery or wagering transaction in Mass; or
- ownership of any interest in real or tangible personal property located in Mass.

Income which is **not taxable** to residents is not taxable to nonresidents. Examples include:

- interest on debt obligations of the U.S. (e.g., U.S. bonds and treasury notes);
- state income tax refunds;
- amounts received as Social Security payments, workers compensation and veterans benefits.

A comprehensive discussion of Massachusetts source income appears in the Nonresident Income Tax Regulation 830 CMR 62.5A.1.

### Example

*Jennifer lives in Connecticut but is a partner in a partnership which operates and manages an apartment complex in a Boston suburb. Jennifer receives \$17,000 per year in rental income from her interest in the partnership.*

*Jennifer's partnership income from ownership of real property in Massachusetts requires her to file a Mass. Form 1-NR/PY.*

### Example

*Andrew is a resident of Arizona but earns income in the form of dividends from common stock in a Massachusetts corporation. His dividend income from this stock is \$10,000 per year.*

*Andrew's dividends are income from intangible property, not real and tangible property. Therefore, he does not have Mass. source income and need not file a Form 1-NR/PY.*

## What Does Carrying on a Trade, Business or Employment in Massachusetts Mean?

The basic rule is that a nonresident generally does not have a trade, business or employment carried on in Massachusetts if the nonresident's presence for business is casual, isolated and inconsequential. If you are a nonresident, your business will be considered casual, isolated and inconsequential if it meets one of the following tests:

- your presence for business in Massachusetts does not exceed 10 days in the taxable year unless you earn more than \$6,000 of gross income directly from business or employment activities;

- your gross income from presence for business in Massachusetts does not exceed \$6,000 in the taxable year; or
- your presence for business in Massachusetts is ancillary to your primary business or employment duties performed at a base of operations outside Massachusetts as with an occasional presence in Massachusetts for management reporting, planning or training, and other similar activities which are secondary to the individual's out-of-state duties.

**Example**

*John, a New Hampshire plumber, is hired to work at a building site in Massachusetts. John spends three weeks working in Massachusetts but earns only \$2,400. This is John's only business contact with Massachusetts during 1997. John's presence is considered to be casual, isolated and inconsequential because he earned less than \$6,000.*

**Example**

*Patty, a journalist from California, gives a speech at a Massachusetts college for which she is paid \$15,000. Patty is only in Massachusetts for one day. She is considered to be carrying on business in Massachusetts because she is paid more than \$6,000.*

**Example**

*Kathy, the regional manager of a New England shoe manufacturer, has an office in the company's headquarters in Portland, Maine. The company maintains four retail outlets in Massachusetts, and the manager spends one week each month assisting in the management of each of the four stores. She is considered to be employed in Massachusetts.*

## **How Do I Know Where My Legal Residence or Domicile Is?**

A person's domicile is his/her place of legal residence. It is determined by all the facts and circumstances particular to his/her case. It is not necessarily defined as where your house or home is located. In general, though, if you have only one house, it is your domicile. However, if you have more than one house, your domicile is determined by your center of activity. You cannot choose to make your home in one place for your most important social and work activities and in another for tax purposes.

Your legal residence is the place which, as demonstrated by all the facts and circumstances, you consider to be your home and the place to which you intend to return following an absence. If you are domiciled in Massachusetts, you remain a Massachusetts resident regardless of any temporary or protracted absence, unless you have established a new home in another state and intend to remain there.

Your legal residence is the place where you maintain your most important family, social, economic, political and religious activities. Among other factors, the following demonstrate your center of activity:

- your place of employment;
- the amount of time you spend in each state;
- the types of activities conducted in each state;
- the relative importance of those activities;
- where you own real and/or personal property;
- where your car is registered; and
- where you registered to vote.

None of these factors alone determines domicile. Once again, domicile is determined by all the facts and circumstances connected with your situation.

You will be considered a legal resident of Massachusetts if you maintain a permanent place of abode in Massachusetts and spend in the aggregate more than 183 days or partial days of the taxable year in Massachusetts. A day spent in Massachusetts while on active duty with the United States armed forces is not considered a day spent in Massachusetts.

**Example**

*Joe decided to move from Pennsylvania to Massachusetts in June. He quit his job in Pittsburgh and moved to Boston intending to stay. Shortly thereafter, he got a job, bought a house and joined the local YMCA. Although Joe has moved to Massachusetts, he still has family ties in Pennsylvania.*

*When Joe decided to move to Massachusetts, he intended to stay. In addition, he owns property here, has a new job in the state and has made an effort to join local clubs. Joe is, therefore, a resident of Massachusetts.*

**Example**

*Carol and Edward own one home in Massachusetts and another in Watch Hill, Rhode Island. The first is their primary residence while the second is a summer cottage. For three months each year Carol and Edward vacation and live in Watch Hill. Both Carol and Edward work in Massachusetts as teachers during the other nine months. They do not earn income while in Rhode Island.*

*An extended vacation outside the state has no bearing on Carol and Edward's Massachusetts residency because they intend to return to the state. A person remains a Massachusetts resident regardless of any temporary or protracted absence.*

### **What About Military Personnel?**

In general, military personnel and their spouses are legal residents of the state in which they live when they enlist. They do not acquire domicile at their duty posts unless they show that they have established a new domicile at their duty station. Nonresident military personnel may be subject to Massachusetts taxes if they earn income from other than military sources.

The following examples illustrate the circumstances under which military pay is taxable in Massachusetts. No guidance is intended on the tax status of such pay under the laws of other states. Often, when income is taxable in two jurisdictions, a credit for taxes paid to the other is allowed on the taxpayer's return in the state of his/her residence.

**Example**

*Bruno and Jennifer are residents of Georgia. Bruno enlisted in the Army in Georgia, but was stationed in Massachusetts and moved here with his wife, Jennifer. He earned \$30,000 in military pay. Bruno and Jennifer had no other income.*

*Military personnel and their spouses are residents of the state in which they resided when they enlisted. Since Bruno enlisted in Georgia, he and his wife are considered residents of that state. They are not residents of Massachusetts and are not required to file a Massachusetts resident return.*

**Note:** While the military income of nonresident military personnel is not subject to Massachusetts taxation, any other income nonresident members of the military or their spouses earn from Massachusetts sources is subject to Massachusetts income tax.

**Example**

*Linda enlisted in the Navy in Massachusetts, but moved with her husband Mike to Delaware when she was stationed there. They did not change their domicile to Delaware. She received military income while her husband received income working as a reporter for a local newspaper.*

*Linda's income from the Navy, as well as her husband's income from the newspaper, are both subject to Massachusetts income tax since she enlisted in the Navy in Massachusetts and they are not residents of Delaware. Linda and her husband are, therefore, Massachusetts residents, and any income they receive, whether derived in Massachusetts or not, is included in their Massachusetts gross income.*

*For further information regarding the filing requirements of military personnel, refer to DOR Directives 86-10, 86-11 and 86-12.*

**Are There Any Special Rules for Students?**

No. The guidelines outlined in the section entitled "How Do I Know Where My Legal Residence or Domicile Is?" are also applicable to students — both those from Massachusetts who attend out-of-state schools and those from out-of-state who attend Massachusetts schools.

**Example** *Frank is a student at the University of Massachusetts and rents an apartment in Amherst. Frank lives in the apartment for more than 183 days in 1997. Since Frank is present in Massachusetts for more than 183 days and is maintaining a permanent place of abode, Frank is considered a resident of Massachusetts, even if his domicile is elsewhere and he intends to leave Massachusetts upon his future graduation.*

**Example** *Myles was born and raised in Massachusetts but enrolled in the University of California. Myles earns money working for the school.*

*Myles continues to be a Massachusetts resident because he has not made any decision whether or not to return to Massachusetts when he graduates. Remember, all income earned by Massachusetts residents is taxable, whether earned inside or outside the state. Therefore, if Myles earns more than \$8,000 in gross income, he must file a Massachusetts resident income tax return.*



# Part-year Resident and Nonresident Adjustments

## Am I a Part-year Resident or Nonresident for Massachusetts Tax Purposes?

If you abandoned or established residence in Massachusetts during the taxable year, you are a **Part-year Resident**. In this case, you must reduce certain income, deductions and exemptions based on the number of days you were a resident or on the amount of income that is subject to tax. Explanations of the adjustments which part-year residents must make are explained below.

If you were not a resident of Massachusetts but earned Massachusetts income (e.g. from a job in Massachusetts), you are considered a **Nonresident** and you must report such income by filing a Nonresident or Part-Year Resident Income Tax Return, Massachusetts Form 1-NR/PY. For further information on whether you must file as a nonresident see the section on "Filing Requirements." Nonresidents must make certain modifications to their income, exemptions and deductions to reflect the fact that they are taxed only on their Mass. source income. Explanations of the adjustments which nonresidents must make are explained below.

A limited number of people are both part-year residents and nonresidents deriving income from Massachusetts sources and are required to file both a Form 1-NR/PY as a part-year resident and as a nonresident. For a discussion of the special adjustments that such taxpayers must make see the section "Filing as a Part-Year Resident When Still Earning Income in Massachusetts."

## What Adjustments Must I Make as a Part-year Resident?

If you are part-year resident, you must make adjustments to income amounts, deductions and exemptions. These adjustments are needed to account for the part of the year when you were not a Massachusetts resident.

## What Are the Adjustments for Income Amounts for Part-year Residents?

In general, if you earned only a portion of the income you reported on your U.S. return while you were a resident of Massachusetts, you must subtract from your U.S. income the amount earned and received while you were legally domiciled in another state or country.

### Example

*Ned lived and worked in Louisiana for the first five months of the taxable year. On June 1, Ned's company transferred him to Massachusetts where he worked and established residency for the rest of the year. Ned is a part-year resident for Massachusetts tax purposes for the period starting June 1 and must file a Form 1-NR/PY, Nonresident or Part-Year Resident Income Tax Return. Although Massachusetts residents are usually taxed on their gross income for the year, Ned may subtract from his U.S. wages the amount earned and received while a resident of Louisiana. In addition, if he received other types of income such as interest or dividends while a resident of Louisiana, for Massachusetts tax purposes, he may adjust his interest and dividend income totals for the year to include only the amounts he received after becoming a resident of Massachusetts.*

## What If I Had Income from Massachusetts Sources Before Becoming a Massachusetts Resident?

If you earn income from Massachusetts sources while a nonresident, you may be required to file a Massachusetts nonresident return for the period you were a nonresident, in addition to the resident return you must file for the period you were a resident. Income is from Massachusetts sources if it is derived from or effectively connected with a trade or business carried on in Massachusetts, employment carried on in Massachusetts, participation in any lottery or wagering transaction in Massachusetts, or ownership of any interest in real or tangible personal property located in Massachusetts.

**Example**

*Melissa and Bob lived and worked in Georgia until May of the taxable year. They also owned a vacation home on Cape Cod from which they received rental income on a year-round basis. In May, they accepted jobs in Massachusetts and moved here. They earned \$10,000 in rental income from the Cape Cod home while they were nonresidents. Melissa and Bob are part-year residents for Massachusetts tax purposes after May and must file a Form 1-NR/PY as a part-year resident. However, since they had income from Massachusetts sources (e.g. from rental property in Massachusetts) while they were nonresidents, they must also file as nonresidents and include the rental income on a Form 1-NR/PY.*

### **How Do Part-year Residents Adjust Deductions?**

As a part-year resident, you must adjust deductions to account for the part of the year that you did not live in Massachusetts. The following deductions are based on the actual expenses which were paid while you were a Massachusetts resident:

- amounts paid to Social Security and Medicare (FICA), Railroad, U.S. or Massachusetts retirement systems;
- employment-related expenses to care for children under age 15, disabled dependents or a disabled spouse;
- one-half of rent paid for a principal residence located in Massachusetts, up to \$2,500;
- allowable employee business expenses;
- penalty for early withdrawal of savings; and
- alimony paid.

**Example**

*For part of the year, Sally lived in Massachusetts and earned \$10,000. In March, she became a Connecticut resident where she earned \$20,000. As a Massachusetts part-year resident, Sally may only deduct the amount for Social Security and Medicare paid from the \$10,000 earned in Massachusetts.*

**Example**

*James, a Massachusetts resident, was divorced in August 1997 and became a Maryland resident at the end of the month. In September, he began making alimony payments to his ex-wife. None of these payments are deductible on his Massachusetts part-year resident return.*

The deduction of \$1,200 for one or more dependent members of the household under age 12 and the college tuition deduction are prorated by the number of days that you were a Massachusetts resident.

**Example**

*Mary and Steven have two children, ages 2 and 5. In 1997, they were Massachusetts residents until July 31 when they moved to New York and established residency. On their Massachusetts return they may claim a deduction for a dependent under age 12. Since Mary and Steven lived in Massachusetts for 212 days, their calculation would look like this:*

$$\frac{212}{365} \times 1,200 = \$697$$

### **How Do Part-year Residents Adjust Exemptions?**

If you were a part-year resident, you must prorate the exemptions for which you qualify based on the number of days you lived in Massachusetts. Each Massachusetts taxpayer is entitled to a personal exemption of \$2,630 if single or married filing separately, or \$4,065 if head of household or \$5,260 if married filing a joint return. In addition, other exemptions are available for those who qualify. These exemptions are for:

- blindness (\$2,200);
- attaining the age of 65 or over before the end of the taxable year (\$700);
- dependents (\$1,000);
- qualified medical and dental expenses; and
- qualified adoption fees.

**Example**

Aletia and her son became Massachusetts residents on May 10, 1997. On her income tax return, she may claim a personal exemption and a dependent exemption. She must prorate her exemptions of \$3,630 (a \$2,630 personal exemption plus a \$1,000 dependent exemption) based on the number of days she lived in Massachusetts. Since Aletia lived in Massachusetts for 236 days, her calculation would look like this:

$$\frac{236}{365} \times \$3,630 = \$2,347$$

### **Are the Adjustments the Same for Nonresidents as for Part-year Residents?**

No. In computing their Massachusetts taxable income, nonresidents must make adjustments to income amounts, deductions and exemptions. The adjustments are necessary because nonresidents are only taxed on Massachusetts source income.

### **What are the Adjustments for Income Amounts for Nonresidents?**

Income received by nonresidents is taxed only when it is from Massachusetts sources. Income is from Massachusetts sources if it falls into one of the following four categories: 1) income derived from or effectively connected with a trade or business carried on in Massachusetts; 2) income from employment carried on in Massachusetts; 3) income from participation in any lottery or wagering transaction in Massachusetts; or 4) income from ownership of any interest in real or tangible personal property located in Massachusetts. As a nonresident, you may subtract from your U.S. income any income which does not fall into one of these four categories.

**Example**

Ann works in Massachusetts and lives in New Hampshire. Her income includes her wages earned in Massachusetts and \$800 of interest income — \$400 of this interest income is received from a personal savings account in a Massachusetts bank, and \$400 is received from deposits in a New Hampshire bank. On her Massachusetts return, Ann need only report her wages, she does not report any of the \$800 of interest income on her Massachusetts return, because it is not Massachusetts source income.

### **How Do Nonresidents Adjust Deductions and Exemptions?**

Since nonresidents are only taxed on income from Massachusetts sources, the deductions and exemptions allowed to them are limited to the amounts related to or proportionate to their Massachusetts source income. Certain deductions may only be claimed if they are directly related to Massachusetts source income. These deductions are:

- amounts paid to Social Security and Medicare (FICA), Railroad, U.S. or Massachusetts retirement systems;
- allowable employee business expenses; and
- penalty for early withdrawal of savings related to interest reported to Massachusetts.

**Example**

Jill and Ted are residents of Connecticut. During 1997, Jill worked in Connecticut, but Ted worked in Massachusetts. In June, he took a job in Connecticut to be closer to home. Jill made Social Security and Medicare contributions of \$3,000. Ted contributed \$2,500, of which \$1,000 was paid when Ted worked in Massachusetts. On their nonresident return, Jill and Ted may deduct \$1,000 for Ted's Social Security and Medicare contributions relating to his Massachusetts employment. They may not deduct any Social Security and Medicare amounts relating to Jill or Ted's Connecticut employment.

Other Massachusetts deductions and all exemptions must be prorated based on the ratio of your Massachusetts source income to the income that would have been taxed to you had you been a Massachusetts resident for the taxable year. This is called the deduction and exemption ratio.

## How Do I Calculate Total Income for the Deduction and Exemption Ratio?

The deduction and exemption ratio is your total 5.95%, 12% and long-term capital gain Massachusetts source income divided by the total income you would have reported had you been a Massachusetts resident.

Differences between Massachusetts and federal tax laws often make the latter amount different from the total income you report on your federal return. See the section on "Differences between Massachusetts and U.S. Taxable Income." To arrive at the amount of income you would have reported had you been a resident, the following types of income included in your U.S. total income but not taxable in Massachusetts should be subtracted from the U.S. total:

- any portion of Social Security and Tier 1 Railroad Retirement benefits federally taxable;
- pensions from contributory retirement plans of the U.S., Massachusetts and other states which do not tax such income from Massachusetts;
- U.S. bond interest;
- state tax refunds; and
- portion of Keogh distributions allocable to original contributions.

Income from long-term gains on collectibles must be adjusted to reflect the fact that Massachusetts has a 50% deduction for long-term gains on collectibles. Income from the following categories which is **not included** in U.S. income must be added back to calculate the total income that would be reported as Massachusetts income had you been a Massachusetts resident:

- bond interest from other states;
- up to \$70,000 in foreign-earned income;
- voluntary contributions to annuity plans established under Sec. 403(b) of the Internal Revenue Code;
- contributions to a pension plan by Mass. state or local employees; and
- net operating loss carryforward.

**Example** *Nonresidents Jane and John have Massachusetts income from the following sources: Jane had Massachusetts wages of \$25,000, and John had Massachusetts director's fees of \$600 and Massachusetts lottery winnings of \$5,500. Neither Jane nor John had interest from Massachusetts banks or other interest, dividends or capital gains. Jane and John have non-Massachusetts income from the following sources: John had non-Massachusetts wages of \$30,000, and together, Jane and John had \$700 of dividend income and \$1,000 in U.S. bond interest. Jane and John have \$57,800 in U.S. income, but only \$56,800 in income that would have been taxed to them as Massachusetts residents. The difference occurs because Jane and John did not have to report their U.S. bond interest in computing the ratio for prorating deductions and exemptions since that income is not taxable in Massachusetts.*

Once you have calculated your deduction and exemption ratio, divide the numerator by the denominator and carry this division out to four decimal places. This ratio represents the relationship of your Massachusetts source income to your total income. You must use it to prorate all your exemptions, the earned income credit and the following deductions:

- dependent member of household under age 12 on December 31, 1997;
- child under age 15, disabled dependent/spouse care expenses;
- alimony paid; and
- the college tuition deduction.

**Example** *Holly, a resident of Rhode Island who works in Massachusetts, has employment related day-care expenses of \$4,000 which qualify for the federal child care credit. Her total Massachusetts source 5.95% and 12% income is \$35,000. She also has \$800 of interest income which*

would have been taxed if she was a Massachusetts resident. Her deduction and exemption ratio is \$35,000 divided by \$35,800 or .9777. Her allowable child care deduction is .9777  $\times$  \$4,000, or \$3,910.80.

**Nonresident Total Income Worksheet**

1. U.S. total income (from Form 1040, line 22; Form 1040A, line 14, Form 1040EZ, line 4 or U.S. Telefile worksheet, item H).....
- 2a. Any portion of Social Security and Tier 1 Railroad retirement benefits federally taxable.....
- 2b. Pensions from contributory retirement plans of the U.S., Massachusetts and other states which do not tax such income from Massachusetts.....
- 2c. U.S. bond interest.....
- 2d. State tax refunds .....
- 2e. Portion of Keogh distributions allocable to original contributions.....
- 2f. 50% of U.S. long-term gains on collectibles after short-term capital losses.....
3. Add lines 2a through 2f.....
4. Subtract line 3 from line 1.....
- 5a. Bond interest from other states .....
- 5b. Income earned in a foreign country excluded under Section 911 of the Code .....
- 5c. Voluntary contributions to annuity plans established under Sec. 403(b) of the Internal Revenue Code .....
- 5d. Contributions to a pension plan by Massachusetts state or local employees .....
- 5e. Net operating loss carryforward.....
6. Add lines 5a through 5e .....
7. Add lines 4 and 6.....

Line 7 is your total income for purposes of calculating your deduction and exemption ratio. This amount should be entered on Form 1-NR/PY, line 14F.



# Filing as a Part-year Resident When Still Earning Income in Massachusetts

## How Do I File If I Move Out-of-State But Continue to Work in Massachusetts?

Generally, you must file Form 1-NR/PY if you were a Massachusetts resident for a portion of the same year that you were a nonresident, and your Massachusetts gross income exceeded \$8,000 for the year. This frequently happens if you moved to or from Massachusetts and received **Mass. source income** after leaving or before moving to the state. If you are required to file, you must make certain modifications to your income, deductions and exemptions.

### Example

*Marissa is a resident of Massachusetts at the beginning of the year. During the period of her residence, she receives \$10,000 in wage income. Marissa then moves to a neighboring state and establishes residency, but continues to work in Massachusetts. After leaving the state, Marissa receives an additional \$15,000 of Massachusetts source wage income. Marissa must file a Form 1-NR/PY as a nonresident and as a part-year resident because her Massachusetts gross income for the year is more than \$8,000.*

## Can Married Taxpayers File Jointly?

Married taxpayers may usually file Form 1-NR/PY jointly. When you are required to file, you must have the same resident and nonresident tax years to do so. In other words, you are not allowed to file jointly unless each spouse is reporting income for the same resident and nonresident periods.

### Example

*Karl and Susan live in Rhode Island and work in Massachusetts. They move to Massachusetts on July 1, 1997 and establish residency. Since they were both nonresidents with Mass. source income from January 1 to June 30 and residents from July 1 to the end of the year, they may file Form 1-NR/PY jointly.*

### Example

*Mark, a Connecticut resident, and Kim, a Massachusetts resident, both work in Massachusetts. Mark and Kim were married in July. After they were married, Mark moved to Massachusetts to live with Kim and establish residency. Mark must file a Form 1-NR/PY, married taxpayer filing separately, for the period before he moved to Massachusetts and for the period after he moved to Massachusetts. Kim must file a Form 1, married filing separately, for the entire year. They may not file jointly because Mark's resident tax year is only the period after he moved to Massachusetts, while Kim was a resident for the whole tax year.*

## What Adjustments to Income Must I Make When Filing Both as a Part-Year Resident and as a Nonresident?

When filing a Form 1-NR/PY as a part-year resident and as a nonresident, you should pay special attention to the following items.

**Take care not to report the same income twice.**

### Example

*Cheryl moved from Vermont to Massachusetts on July 1, 1997. She worked in Massachusetts for the entire year and also had a part-time job in Vermont. She earned the following amounts from her two jobs:*

	Jan. 1–June 30	July 1–Dec. 31
Mass. job	\$14,000	\$14,000
Vermont job	\$6,300	\$7,000

*Cheryl reports the \$14,000 earned from Massachusetts filed as a nonresident, covering the first six months of 1997. For the second half of the year, as a part-year resident, she reports her wages from both Massachusetts and Vermont, \$21,000.*

Remember that while you are a resident, income from all sources is subject to Massachusetts taxes. See the discussion of "Differences Between Massachusetts and U.S. Taxable Income."

**Example**

Lisa is a Massachusetts resident who works in Rhode Island and owns rental property in Massachusetts and Rhode Island. Lisa moves to Rhode Island in August and establishes residency. Lisa's income for the year is:

	Jan. 1–Aug. 15	Aug. 15–Dec. 31
Rhode Island job	\$17,000	\$13,000
Mass. rental income	\$12,000	\$8,000
R.I. rental income	\$6,000	\$4,000

Lisa reports her wages of \$17,000 and all of her rental income on the Form 1-NR/PY that she files.

Income which is not taxable to residents is not taxable to nonresidents. See the discussion of "Differences Between Massachusetts and U.S. Taxable Income."

**Example**

Colleen lives in New York and works in Massachusetts. Colleen has wage income from Massachusetts sources and income from U.S. savings bonds. She moves to Massachusetts in May and establishes residency. Colleen does not report her U.S. savings bond interest on Form 1-NR/PY because U.S. savings bond interest is not taxable in Massachusetts.

## What Adjustments to Deductions Must I Make When Filing Both as a Part-Year Resident and as a Nonresident?

If filing Form 1-NR/PY as a part-year resident and as a nonresident, you must reconcile the deduction amounts claimed on the form for the following types of deductions:

- Child under Age 15, Disabled Dependent/Spouse Care Expenses (Form 1-NR/PY, line 16)
- Dependent member of Household under Age 12 at Year End (Form 1-NR/PY, line 17)
- Alimony Paid (Form 1-NR/PY, Schedule Y, line 3)
- College Tuition Deduction (Form 1-NR/PY, Schedule Y, line 6)

**Example**

Bob and Betty lived in Connecticut for the first three months of 1997 before moving to Massachusetts. Bob worked in Connecticut and Betty worked in Massachusetts. Betty earned \$13,050 (Mass. source income) before moving, and their total income before moving was \$28,400. They have one child, age 2. When completing their Form 1-NR/PY, they claim the "Dependent Member of Household under Age 12 at Year End" deduction in line 17. They calculate their deduction using the following formula:

Days in Mass.	×	Amount of deduction	=	Part-year deduction allowed
365	×		=	
275 (9 months)	×	\$1,200	=	\$904
365				

To calculate the allowable deduction for a "Dependent Member of Household under Age 12 at Year End" for the period filed as a nonresident, Bob and Betty followed these steps: First, they subtracted the amount filed as a part-year resident from the total deduction amount.

$$\$1,200 - \$904 = \$296$$

Second, nonresident taxpayers prorate certain deductions based on their ratio of Mass. source income to total income. Therefore, Bob and Betty divided the Mass. source income received

$$\frac{\$13,050}{\$28,400} = .4595 \text{ (deduction and exemption ratio)}$$

while nonresidents by the total income they received while they were nonresidents.

$$\$296 \times .4595 = \$136$$

Third, they multiplied the result in step 1 by the deduction and exemption ratio.

All other deductions must be directly related to Massachusetts income reported on the form. (In the case of rent paid, it must be on a principal residence located in Massachusetts.) Those deductions are:

- Amount Paid to Social Security and Medicare (FICA), Railroad, U.S. Massachusetts Retirement Systems (Form 1-NR/PY, line15)
- Rental Deduction (Form 1-NR/PY, line 18)
- Allowable Employee Business Expenses (Form 1-NR/PY, Schedule Y, line 1)
- Penalty on Early Savings Withdrawal (Form 1-NR/PY, Schedule Y, line 2)
- Amounts Excludable Under MGL. Ch. 111F or U.S. Tax Treaty
- Qualified Contributory Pension Income From Another State (Form 1-NR/PY, Schedule Y line 5)

### Example

Emily and Alan lived in Massachusetts for the first six months of 1997 and in Connecticut for the last six months of 1997. Alan worked in Massachusetts for the whole year and Emily worked in Connecticut for the whole year. Alan and Emily's contributions to Social Security are as follows:

	Jan. 1–June 30	July 1–December 31	Total
Alan's contributions	\$1,025	1,025	\$2,050
Emily's contributions	\$1,050	1,250	\$2,300

Alan claims \$1,025 as his Social Security deduction for the first half of the year and Emily claims \$1,050. For the second half of the year as a nonresident, Alan claims a \$975 Social Security deduction directly related to Mass. source income. Emily does not claim a Social Security as a nonresident because she did not have Mass. source income. Alan only claims \$975 (\$2,000 – \$1,025 claimed as a part-year resident = \$975) because the maximum allowable deduction of exemptions for the year is \$2,000.

## What Adjustments to Exemptions Must I Make when Filing both as a Part-Year Resident and as a Nonresident?

You must reduce your total exemptions claimed as a nonresident by the amount of any exemptions you claimed as a part-year resident. Subtract the amount of exemptions (as a part-year resident) from the total of Form 1-NR/PY, line 4f. Then multiply the difference by line 14g from Form 1-NR/PY.

### Example

Pat and Paula lived in Massachusetts for the first six months of 1997 and in New Hampshire for the remaining six months. Pat worked in Massachusetts; Paula worked in Rhode Island for the entire year. They calculated a deduction and exemption ratio of .4415 in line 14g. They have two dependents. The deductions Pat and Paula calculate before modification are \$7,260 (\$5,260 for married taxpayers filing jointly and \$1,000 for each of their dependent children). They multiply the total exemptions of \$7,260 by Form 1-NR/PY, line 2.

Pat and Paula then add the exemption amount from their part-year resident period to the exemption amount from their nonresident period and enter the total in Form 1-NR/PY, line 22.

They subtract the exemption amount claimed as part-year residents and multiply the result by the deduction and exemption ratio in line 14g.

1. Form 1-NR/PY, line 4f	\$7,260
2. Form 1-NR/PY, line 2	× .4959
3. Amount as a part-year resident	– 3,600
4. Subtotal	= 3,660
5. Ratio from Form 1-NR/PY, line 14g	× .4415
6. Amount as a nonresident	= \$1,616
7. Total Mass exemptions for Form 1-NR/PY, line 22 (add line 3 and line 6)	\$5,216

## What Schedule Do I Use to Adjust My Income, Deductions and Exemptions?

Schedule R/NR, Resident/Nonresident Worksheet should be used to adjust your income, deductions and exemptions. After completing Schedule R/NR, enter the amounts from the total columns in the applicable Form 1-NR/PY lines. Enclose a copy of Schedule R/NR with Form 1-NR/PY when you file your return. Schedule R/NR can be obtained by visiting any DOR location or calling our Customer Service Bureau at (617) 887-MDOR or in-state, toll-free at 1-800-392-6089.

## If I Might Qualify for No Tax Status, Which Schedule Should I Use?

You should complete Schedule NTS-L-NR/PY. See the section on "No Tax Status and the Limited Income Credit."



# No Tax Status and the Limited Income Credit

## **What is No Tax Status?**

No Tax Status is the income amount below which no Massachusetts income tax is due.

## **Who is Eligible for No Tax Status?**

You are eligible for No Tax Status if your Massachusetts Adjusted Gross Income (Mass. AGI) was \$8,000 or less, if single, or \$12,860 or less, plus \$1,000 per dependent if married filing a joint return or \$11,665 or less plus \$1,000 per dependent if filing as head of household. The income calculation must include income from both resident and nonresident sources. If you qualify, you are not required to pay any 1997 Massachusetts income taxes. Married taxpayers filing separately do **not** qualify for No Tax Status.

## **What is the Limited Income Credit?**

The Limited Income Credit is an alternative tax calculation for taxpayers who are just above the No Tax Status threshold. The Limited Income Credit can provide a significant tax reduction for taxpayers who qualify.

## **Who is Eligible for the Limited Income Credit?**

If you do not qualify for No Tax status, but you are single and your Mass. AGI is between \$8,000 and \$14,000, or if you are married filing a joint return and your Mass. AGI is between \$12,860 and \$22,505, plus \$1,750 per dependent or if you are filing as head of household and your Mass. AGI is between \$11,665 and \$20,414, plus \$1,750 per dependent you may qualify for the Limited Income Credit.

## **Can I Qualify for No Tax Status or the Limited Income Credit if I am Married Filing Separately?**

No. If you are married, you must file a joint return in order to qualify for No Tax Status or the Limited Income Credit.

## **How Do I Calculate My Massachusetts Adjusted Gross Income?**

Mass. AGI is not the same as taxable income. Mass. AGI, for the purpose of No Tax Status, is generally your total 5.95% income after **certain allowable deductions** plus income from interest and dividends, capital gains and income while a nonresident. Your 5.95% income may never be considered to be less than zero. The **allowable deductions** are those amounts reported on Form 1 or Form 1-NR/PY for allowable employee business expenses, penalty on early savings withdrawal and alimony paid by you to your former spouse.

Specifically, Mass. AGI includes the following:

- wages, tips and salaries;
- business, profession, trade or farm income;
- partnership and S corporation income;
- trust income;
- royalty and REMIC income;
- Massachusetts bank interest;
- taxable pension and annuity income;
- alimony received;
- rental income;

- unemployment compensation;
- taxable IRA and Keogh distributions;
- other 5.95% income including winnings, fees, etc.
- 12% interest and dividends; and
- capital gains

Calculate your Mass. AGI by completing the AGI worksheet included in the Form 1 instructions or Schedule NTS-L-NR/PY included in Form 1-NR/PY.

**Example**

*Karen is a recent college graduate and worked only five months in 1997. Her income before deductions was \$7,500 and she has \$175 in interest from accounts in Massachusetts banks.*

*Since Karen's Massachusetts Adjusted Gross Income is not greater than \$8,000 she is not required to pay any state income tax. After she files her return, she will receive a tax refund of \$275, the amount withheld from her pay.*

**Example**

*Christina is an outside salesperson and earned \$9,500 in 1997. However, she had \$2,000 in allowable employee business expenses. Since her Mass. AGI is \$7,500 she qualifies for No Tax Status.*

**Example**

*Mike and Joan are married and file a joint return. They have no dependents. Their 5.95% income included wages of \$11,900, Massachusetts savings bank interest of \$150 and net rental income of \$1,400. Their 12% income, from interest and dividends, totalled \$1,600. Since no allowable deductions applied, their total Adjusted Gross Income equalled \$15,050. Although No Tax Status does not apply (since income exceeded \$12,860), they continue to complete the Limited Income Credit worksheet in the Form 1 instructions to determine their eligibility for the Limited Income Credit (Mike and Joan's income did not exceed \$22,505). The tax prior to calculating the Limited Income Credit was \$360. The Limited Income Credit was \$141. As a result, the tax after the Limited Income Credit equalled \$219.*

**Note:** Depending on your type of income and your allowable deductions and exemptions, you may or may not derive a credit from the Limited Income Credit worksheet or Schedule NTS-L-NR/PY, even though Mass. AGI qualified you to complete it.

## Can I Qualify for No Tax Status or the Limited Income Credit if I Am a Part-Year Resident or Nonresident?

For part-year residents and nonresidents, Massachusetts General Laws require that Mass. AGI must be computed as if the nonresident had been a Massachusetts resident for the taxable year. In determining whether or not you qualify for No Tax Status or the Limited Income Credit, you must consider **all of your income**, including that which is not taxable in Massachusetts. You are eligible for **No Tax Status** if your combined Mass. source income and non-Massachusetts income is \$8,000 or less if single, or \$12,860 or less, plus \$1,000 per dependent if married filing a joint return or \$11,665 or less, plus \$1,000 per dependent if head of household. You may benefit from the **Limited Income Credit** if your combined Mass. Source Income (if a non-resident) or Mass. resident income (if a part-year resident) plus any non-Massachusetts income is between \$8,000 and \$14,000 if single or if you are married filing a joint return and your Mass. AGI is between \$12,860 and \$22,505, plus \$1,750 per dependent or if you are filing as head of household and your Mass. AGI is between \$11,665 and \$20,414, plus \$1,750 per dependent.

**Example**

*Brian, who is single, is a New Hampshire resident and freelances as a graphic designer. His clients are usually based in New Hampshire; however, in 1997 he had one client in Massachusetts. His Mass. source income was \$6,200 and his total income was \$35,700. Brian does not qualify for **No Tax Status** since his total income is greater than \$8,000.*

**Example**

Scott and Rebecca were residents of Massachusetts for five months in 1997, they have no dependents. Their income for that period of time was \$18,500 and their total income for the year was \$47,200. Filing a joint Mass. return Scott and Rebecca are not eligible for a Limited Income Credit since their total income is greater than \$22,505.

**If I File Both as a Part-Year Resident and as a Nonresident Can I Still Qualify for No Tax Status or the Limited Income Credit?**

If you are filing Form 1-NR/PY as a part-year resident and as a nonresident, complete Schedule NTS-L/PY. It is not necessary to complete two schedules.

**Example**

Don lived in New Hampshire and worked in Massachusetts for the first four months of 1997. In May, Don moved to Massachusetts and continued to work at the same job. For the entire year Don earned \$12,000. Don completes Schedule NTS-L/PY for the Form 1-NR/PY. After completing the schedule Don determines that he can claim a Limited Income Credit of \$127.

**If I Had a Short Taxable Year, Am I Eligible for No Tax Status or the Limited Income Credit?**

If you had a short taxable year for any reason other than being a nonresident for part of the year, you must prorate the No Tax Status threshold amounts to reflect the actual length of your taxable year.

**Example**

Paul was a fiscal year filer who wanted to switch to calendar year filing. Paul's fiscal year ended on June 30, 1997, so he is filing a short-year return for the period July 1 to December 31, 1997. To correctly prorate the No Tax Status threshold, he multiplies the fraction of the year for which he is filing by \$8,000. Since his tax year was half the calendar year, his No Tax Status threshold is half of \$8,000, or \$4,000. Because Paul earned \$6,000 in his short taxable year, he is not eligible for the prorated No Tax Status.



# Credits

## Long-term Capital Gains Tax Credit Applied to 12% Income

### What is the Long-term Capital Gains Tax Credit Applied to 12% Income?

When long-term capital losses are in excess of long-term capital gains a credit is generated.

### What Can the Credit be Applied Against?

The credit can be applied against the amount of 12% tax attributable to short-term capital gains and the long-term gains on collectibles.

### May Excess Credits be Carried Over from Year to Year?

Yes. Unused credits may be carried forward to be used against the tax on long- and short-term capital gains in subsequent years.

### How Do You Take the Long-term Capital Gains Tax Credit Applied to 12% Income?

To take the credit you must complete Schedule B-1, Long-term Capital Gains Tax Credit Applied to 12% Income.

## Credit for Taxes Paid to Other Jurisdictions

### Are Massachusetts Residents Allowed a Credit for Taxes Paid to Other Jurisdictions?

Yes. Massachusetts residents are allowed a credit for taxes due to any other state, territory or possession of the United States, the Dominion of Canada or any of its provinces, on income which is subject to Massachusetts income tax.

### What are the Restrictions on the Credit?

This credit is subject to the following restrictions:

- the amount of tax due claimed as a credit may not include any applicable interest and penalty charges due to the other jurisdiction;
- the amount of tax due claimed as a credit must be reduced by any federal credit allowable on the resident's U.S. income tax return. Federal tax credits are calculated on U.S. Form 1116;
- the total credit is the lesser of the following:
  - (i) the amount of taxes due to other jurisdictions reduced by any federal credit allowable; or
  - (ii) the portion of Massachusetts tax due on the gross income that is taxed to the other jurisdiction.
- the credit may not include any city or county taxes paid to another jurisdiction.

### How Do You Calculate Your Allowable Credits?

Total credits for taxes paid to other jurisdictions are calculated on a worksheet in the Form 1 instructions or on Schedule F included in the Form 1-NR/PY booklet. Taxpayers who have both 5.95% and 12% or long-term capital gain income which was taxed by another jurisdiction are required to do separate computations for each of these types of income. When calculating a credit for capital gain income, you must also enter on the worksheet or Schedule F total capital gains calculated as if they were earned in Massachusetts. Remember to attach a copy of your completed tax return(s) filed in other jurisdictions.

**Note:** Income amounts subject to tax in another jurisdiction and entered in line 1 of the worksheet or Schedule F must be calculated as if they were subject to Massachusetts tax rules.

### Example

*Stephanie is a Massachusetts resident who works in Rhode Island. Her only income is wages from her job. She files a 1997 Nonresident tax return in Rhode Island. To claim a credit for the taxes she has paid Rhode Island, Stephanie completes the worksheet, Credit for Income Taxes*

*Paid to Other Jurisdictions in the Form 1 instructions. She includes a copy of her Rhode Island return with her Massachusetts Form 1.*

## **Solar and Wind Energy Credit**

### **What is the Energy Credit?**

The Massachusetts energy credit is a tax credit equal to 15% of the net expenditure for renewable energy source property or \$1,000, whichever is less.

### **Who is Eligible to Take the Energy Credit?**

You may take advantage of the Massachusetts energy credit if you are an owner or tenant of residential property located in the Commonwealth. The property must be the principal residence of the taxpayer. Summer or vacation homes, or renewable energy source property placed in a rental unit by a landlord, **do not qualify** for the credit. Joint owners, who occupy residential property as their principal residence, share any credit available to the property in the same proportion as their ownership interests. In the case of new construction, the credit is available to the original owner-occupant. Any taxpayer who is a dependent of another taxpayer is not eligible for the energy credit.

### **What is Qualified Renewable Energy Source Property?**

For purposes of the energy credit, qualified renewable energy source property is property which transmits or uses either of the following:

- solar energy, or any other form of renewable energy, for heating or cooling, for providing hot water or for providing electricity to the taxpayer's principal residence. Examples of solar energy items include collectors, rockbeds and heat exchangers.
- wind energy used to generate electricity or mechanical forms of energy for nonbusiness purposes. Examples of wind energy items include windmills, wind-driven generators and power conditioning and storage devices.

The taxpayer claiming the credit must be the first one to use property of the types described above. The property must also:

- be expected to last at least five years; and
- meet the performance and quality standards prescribed by the Commissioner of Revenue in Regulation 830 CMR 62.6.1.

### **What Costs Are Not Eligible for the Credit?**

The following energy conservation costs are not eligible for the Massachusetts energy credit:

- heating and cooling systems, other than solar and wind, that supplement renewable energy source equipment;
- expenditures for conservation items such as insulation, storm or thermal windows or doors, caulking or weatherstripping;
- expenses related to heat pumps (air and water), wood burning stoves or furnaces;
- energy storage mediums for non-essential functions, such as swimming pools and greenhouses;
- materials and components that have a structural function or are structural components.

### **When is the Energy Credit Taken?**

The energy credit is taken in the taxable year in which the qualified energy property was purchased or installed. If your energy credit amount exceeds your tax for the taxable year, you may carry over the excess to any one or more of the next three succeeding taxable years. The energy credit may not exceed your total tax due for the applicable year. To take the energy credit, you must complete and file Massachusetts Schedule EC.

**Example**

*Joshua had a solar heating energy system installed in his principal residence during 1997. The total expenditure for the system was \$2,500. Completing Schedule EC, Joshua calculates that his allowable energy credit for 1997 will be \$375 ( $2,500 \times 15\%$ ). On his 1997 Massachusetts Form 1, Joshua calculates his total tax to be \$928. Because his energy credit amount is less than his total tax amount, Joshua can take the entire \$375 amount as his 1997 energy credit.*

## **Lead Paint Credit**

### **What is the Lead Paint Credit?**

The Lead Paint Credit is a credit provided for removing or covering materials on residential premises in Massachusetts that have been established as containing dangerously high levels of lead. The credit for each residence is equal to the cost of the deleading expenses, or \$1,500, whichever is less. A credit is also available for the costs of interim control deleading measures for the lesser of \$500 or one-half the cost of the interim control measures. The amount of any interim controls will apply to the total limit of \$1,500.

### **What Types of Properties Qualify for the Lead Paint Credit?**

Only residential premises qualify for the Lead Paint Credit. Examples of qualifying premises are:

- single family homes;
- individual units in an apartment building;
- condominium units; and
- individual units in multi-family homes.

### **Who is Eligible to Take the Lead Paint Credit?**

The Lead Paint Credit may be taken only by the owner of the qualified premises. However, the total credits claimed may not exceed \$1,500 for each unit.

### **What Type of Work Does the Credit Cover?**

The Lead Paint Credit applies only for work done in actually deleading contaminated areas. Deleading refers to the removal or covering of contaminated paint, plaster or other materials that could readily be accessible to children under six years of age. Only costs that are incurred for legally required deleading qualify for the credit. Costs incurred in repainting or refinishing surfaces are not eligible for the tax credit.

### **What are Interim Control Measures?**

Interim control measures are deleading activities undertaken to address urgent lead hazards until full compliance is achieved.

### **How Do You Take the Lead Paint Credit?**

To take the Lead Paint Credit, the following steps must be completed:

- the residential unit must be inspected by an inspector who is registered or licensed by the Department of Public Health (Childhood Lead Poisoning Prevention Program). The inspector must establish the presence of dangerous lead levels in violation of the lead paint law in the residence;
- the contaminated areas must be delead or interim control measures undertaken by a deleader or qualified unlicensed individual in a manner prescribed by regulation; and
- the property must be reinspected by a registered or licensed inspector who certifies that all materials on the premises that contained dangerous levels of lead in violation of the lead paint law have been properly delead and issues a Letter of Compliance or Letter of Interim Controls.

**When are Taxpayers Entitled to Take the Lead Paint Credit?**

Taxpayers are entitled to take the Lead Paint Credit in the taxable year in which the property is brought into full compliance or in the year in which the payment for the deleading is made, whichever is later.

To take the Lead Paint Credit, taxpayers must complete and file Massachusetts Schedule LP, Credit for Removing or Covering Lead Paint on Residential Premises. A copy of the Letter of Compliance or the Letter of Interim Control must also be attached to Schedule LP of the Massachusetts income tax return of the taxpayer(s) claiming the Lead Paint Credit.

**What if My Lead Paint Credit is Larger than My Tax Liability?**

If your Lead Paint Credit is larger than the amount you owe in Massachusetts income taxes for the year, the balance may be carried over into the next tax year. Taxpayers may carry over unused portions of their original credit for up to seven years.

**Who Can I Contact for Further Information on Lead Paint Removal, Inspection Requirements and the Lead Paint Credit?**

For further information on how to find a registered or licensed lead paint inspector, you may contact the Department of Public Health at (617) 753-8400 or toll-free, in-state at 1-800-532-9571. For further information about how to find a certified or licensed deleader, you may contact the Department of Labor and Workforce Development at (617) 727-7047. For further information on the Lead Paint Credit, you may contact the Department of Revenue at (617) 887-MDOR or toll-free, in-state at 1-800-392-6089.

**Economic Opportunity Area Credit****What is the Economic Opportunity Area (EOA) Credit?**

The Economic Opportunity Area Credit is a tax credit equal to 5% of the costs of qualifying property purchased for business use within a certified project in an EOA.

**What Is an Economic Opportunity Area?**

An Economic Opportunity Area is an area that has been designated by the Economic Assistance Coordinating Council (EACC) as a "decadent area" or a "blighted open area" which is detrimental to the sound growth of a community and unlikely to be developed by the ordinary operation of private enterprise.

**Who is Eligible to Take the Economic Opportunity Area Credit?**

The credit is available to all businesses regardless of whether the business is a sole proprietorship, partnership, corporation or S corporation.

**What Is a Certified Project?**

A certified project is a business proposal that has been approved by the EACC. To qualify as a valid business proposal, the proposal must include a workable plan to increase employment in the EOA. It must also be approved by the municipality where the EOA is located.

**What Type of Property Qualifies for the Credit**

Property purchased for business use and used exclusively within a certified project may be used in the calculation of the credit. Generally, qualifying property must be: depreciable real or tangible personal property; have been acquired by purchase pursuant to Section 17g(d) of the IRC; have a useful life of four years or more or a recovery period of three years or more; be used in Massachusetts; and be situated in Massachusetts as of the last day of the taxable year.

**Are there Limitations to the Credit?**

Yes. Taxpayers are allowed to use the EOA credit to offset up to 50% of their tax liability.

**May Excess Credits be Carried Over from Year to Year?**

Yes. Taxpayers may carryover unused EOA credits for up to ten years.

**How Do You Take the Economic Opportunity Area Credit?**

To take the Economic Opportunity Area Credit you must complete Schedule EOA, Economic Opportunity Area Credit. If you are a shareholder in an S corporation, you will be notified by the S corporation of the proper amount to use to complete Schedule EOA. If you are a general or limited partner you will be notified by the partnership of the proper amount to use to complete Schedule EOA.

**Where Can I Obtain More Information on Qualifying Economic Opportunity Areas?**

To obtain more information on qualifying Economic Opportunity Areas contact the Massachusetts Office of Business Development, One Ashburton Place, Room 2101, Boston, MA 02108.

**Full Employment Credit****What Is the Full Employment Credit (FEC)?**

Legislation provides for a Full Employment Credit (FEC) to provide paid work experience and on-the-job training. Qualified employers may claim the credit for months of eligible employment beginning on or after November 1, 1995.

**What Is Eligible Employment?**

Eligible employment is the number of full calendar months a participant has been employed after any state subsidy paid to the qualified employer for employing that participant under the Full Employment Credit (FEC) has expired.

**Who May Claim the Credit?**

Every qualified employer who participates in the Full Employment Program and continues to employ a participant for at least one full month after any Full Employment Program subsidy for that participant has expired may claim the Full Employment Credit. Qualified participants and employers are those who participate in the Full Employment Program under the rules of the Department of Transitional Assistance (DTA).

**How Do You Compute the Credit?**

A qualified employer may claim the Full Employment Credit equal to \$100 per month of eligible employment per participant. The maximum amount of credit that may be claimed in all taxable years with respect to each participant is \$1,200.

**Can the FEC Be Used in Combination with Other Credits?**

Yes. The FEC may be applied in combination with other credits allowed under sec. 6 of Ch. 62 in any order.

**May Excess Credits Be Carried Over From Year to Year?**

Yes. Any portion of the FEC that cannot be applied in a taxable year may be carried over to the next taxable year, for a maximum of five successive taxable years.

**May S Corporation Shareholders Claim the FEC Credit?**

A qualified Massachusetts S corporation employer taxable in any year under Ch. 63 may take the FEC for the taxable year against either or both the income or non-income measure of the corporate excise. Alternatively, the credit from such taxable year may be passed through to shareholders on a pro-rata basis. These alternatives are mutually exclusive.

**May S Corporation Shareholders Carryover Any Unused FEC Credit?**

If an S corporation passes the FEC for a taxable year through its shareholders, any unused credit from that year may be carried over only by the shareholder and applied only against its Ch. 62 personal income tax liability for a maximum of five successive taxable years, regardless of whether the shareholder maintains an interest in the corporation in the taxable year in which the carryover credit is applied.

## Septic Credit

### What is the Septic Credit?

Any owner of a residential property who occupies the property as his or her principal residence may claim a credit for certain expenditures for the repair or replacement of a failed cesspool or septic system. The repair or replacement must be made in accordance with the rules of Title 5 of the state environmental code as administered by the Department of Environmental Protection.

### How is the Amount of the Credit Computed?

The amount of credit allowed is equal to forty percent of the expenditures, incurred for design and construction expenses to repair or replace a failed system, that are the lesser of the taxpayer's actual costs or \$15,000. The maximum amount of the credit is \$1,500. If the taxpayer has received a below market interest rate loan from the Commonwealth, the amount of the credit that may be claimed is reduced by the amount of the interest subsidy that has been received by the taxpayer at the time the credit is claimed.

### What are Actual Costs?

Actual costs includes all necessary and reasonable costs paid by the taxpayer for repair or replacement of a failed system, including the costs for construction, materials, machinery and equipment, demolition, relocation, design, engineering, testing and inspection.

### When are Taxpayers Entitled to Take the Septic Credit?

Taxpayers are entitled to take the Septic Credit in the taxable year in which the work required to repair or replace the failed system is completed. "Completed" means the date on which a Certificate of Compliance is issued by the appropriate authority, indicating that a failed cesspool or septic system has been repaired or replaced.

To take the Septic Credit, taxpayers must complete and file Massachusetts Schedule SC, Septic Credit— Title 5 Credit for Repairing or Replacing a Failed Cesspool or Septic System. A copy of the Letter of Compliance and Schedule SC must be included with the Massachusetts income tax return of the taxpayer(s) claiming the Septic Credit.

### What if My Septic Credit is Larger than My Tax Liability?

If your Septic Credit is larger than the amount you owe in Massachusetts income taxes for the year, the balance may be carried over into the next tax year. Taxpayers may carryover unused portions of their original credit for up to three tax years.

## Earned Income Credit

A refundable earned income credit is available to certain low-income individuals who have earned income and meet federal requirements for the federal earned income credit. The taxpayer must qualify for and claim the federal earned income credit allowed under Internal Revenue Code Section 32 as amended and in effect for the taxable year. If other credits are used by the taxpayer for the taxable year, the earned income credit is applied last. If the credit exceeds the tax imposed, the taxpayer receives the difference in the form of a refund check (without interest).

## Qualifying for More Than One Type of Credit

If you qualify to take more than one type of credit on your income tax return, be sure to complete all necessary schedules and attach them to your return.



# Estimated Tax Payments

## Who Must Make Estimated Tax Payments?

In general, you are required to pay at least 80% of your annual income tax liability before filing your annual return. You can fulfill this requirement through withholding and by making estimated tax payments on income that is not subject to withholding. If you expect to receive taxable income which will result in more than \$200 in tax and upon which there is no withholding, you must make estimated tax payments. The amount of estimated tax is equal to your estimated amount of total tax minus the estimated amount of withholding for the taxable year.

Income which is not subject to withholding includes, but is not limited to, the following:

- salaries and wages from employment not subject to Massachusetts withholding;
- unemployment compensation (if you did not elect voluntary withholding);
- dividends and interest;
- alimony received;
- gains from the sale or exchange of capital assets;
- income from an estate or trust not taxed directly in Massachusetts;
- income from certain pensions;
- gambling winnings;
- rental income; and
- income from illegal sources.

## May a Husband and Wife Make Joint Payments?

Yes. As husband and wife you may make joint payments of estimated tax as long as you are married at the time when the payments are due and not separated by a decree of divorce or separate maintenance. If you choose to make such joint estimated tax payments but do not file a joint annual return, your estimated tax payments may be attributed to one or both of you, apportioned however you please.

## What Form Should I Use to Make Estimated Tax Payments?

If you're filing Forms 1 or 1-NR/PY you should use Massachusetts Form 1-ES to make estimated tax payments. DOR sends preaddressed forms to most people who are required to make estimated payments. Using these forms ensures faster and more accurate processing.

## Are There Any Alternatives to Filing Estimated Taxes?

Yes. Instead of making estimated payments, you may request that your employer(s) withhold additional amounts from your wages or salary to cover those taxes on income not subject to withholding. You may make such a request on the Massachusetts Employee's Withholding Exemption Certificate, Form M-4.

**Example** Nancy works for an accounting firm and has withholding tax deducted from each paycheck. Nancy also receives \$16,000 per year from rental property she owns. Rental income is not subject to withholding. For this reason, she will be required to pay estimated taxes unless she requests that her employer withhold an additional sum to compensate for the income tax she'll owe on her rental income. Rental income is taxed at 5.95%. Nancy, therefore owes \$952 in annual estimated taxes on her rental property income of \$16,000. She completes a Massachusetts Employee's Withholding Exemption Certificate, Form M-4, to request that her employer withhold an extra \$40 per paycheck (she is paid twice per month) instead of making estimated payments.

## May I Apply This Year's Refund to Next Year's Estimated Tax Due?

Yes. You may apply all or any part of your 1997 income tax refund to your estimated account for the following tax year. You may do this on Form 1, line 38 or Form 1-NR/PY, line 43. If you choose to apply your refund to your estimated account, you need not submit a Form 1-ES payment voucher until you are making a payment.

### Example

*Chris worked in a restaurant and had \$500 more than he owed in Massachusetts income taxes for 1997 withheld from his pay. He was therefore entitled to a refund equal to that amount. However, he had recently sold his vacation home and received a \$10,000 long-term capital gain upon which there was no withholding. Chris decided to apply \$480 of his overpayment toward the estimated tax payments he would be required to pay in 1998 on the \$10,000 capital gain.*

*To do this, he entered in line 38 on Form 1 the amount of his overpayment he wished to apply against the following year's estimated taxes (i.e. \$480). He then entered the \$20 balance of his overpayment in line 39 on Form 1.*

## When are Payments Due?

Calendar year taxpayers (January 1–December 31) must file the first payment voucher, Form 1-ES, on or before April 15 of the taxable year and January 15 of the following year. A completed voucher must accompany each payment.

Fiscal year taxpayers must file their first payment voucher, Form 1-ES, on or before the 15th day of the 4th month of the fiscal year. The estimated tax may be paid in full with the first payment voucher or in four installments on or before the 15th day of the 4th, 6th and 9th months of the fiscal year and the 15th day of the 1st month of the following fiscal year.

## What If My Tax Liability Changes During the Year?

Even though you may not expect to owe estimated tax payments at the beginning of the year, your income or exemption(s) may change during the year so that you are subsequently required to make such tax payments. If you must make estimated tax payments because of a change in your income or deductions after the due date of the first payment voucher, you should follow the schedule below:

<i>Date of Change in Income or Deductions</i>	<i>Due Date of First Payment Voucher</i>	<i>Remaining Estimated Payment Date</i>
<i>Between April 1 and May 31</i>	<i>June 15</i>	<i>Sept. 15, January 15 of the following year</i>
<i>Between June 1 and August 31</i>	<i>September 15</i>	<i>January 15 of the following year</i>
<i>September 1 and December 31</i>	<i>January 15 of the next taxable year</i>	<i>None</i>

## What Is an Underpayment Penalty?

If you haven't paid at least 80% of your annual tax liability through estimated payments and/or withholding, you may be liable for an addition to tax, or underpayment penalty. The underpayment penalty is based on the current federal short-term interest rate plus four percentage points. The underpayment penalty is assessed on the amount of the underpayment for the period of the underpayment.

You should use Massachusetts Form M-2210 to calculate the amount of the addition to tax. The 80% requirement is reduced to 66 2/3% if you receive two-thirds of your income from fishing or farming.

**Example** Heather owned a clothing store in Boston. Her taxable business income after deductions and exemptions was \$60,000 in 1997, all of which was 5.95% income. However, Heather neglected to remit the required estimated income tax installment payments. She sent in only one estimated payment voucher with a check for \$750 on September 15, 1997.

Since Heather's total tax liability equals \$3,569, the necessary 80% of the total equals \$2,855. Not having paid that amount, Heather is subject to an underpayment penalty whose exact amount can be determined using Form M-2210.

### Are There Any Exceptions to the Underpayment Penalty?

Yes. If you qualify for one of the following exceptions, no underpayment penalty is assessed.

**Exception 1** — The tax shown on the annual return after credits and withholding is less than \$200.

**Example** Sam is a Massachusetts resident employed as an engineer for a large telecommunications company. He also receives income in the form of dividends from stock in various corporations. Withholding is paid on the salary he receives as an engineer, but not on the dividends he receives from his corporate shares. Over the course of the year, Sam has earned \$8,000 in stock dividends. Sam is also eligible for an \$825 Energy Credit.

While Sam would have owed estimated taxes equal to 12% of his \$8,000 of dividend income, or \$960, his energy credit of \$825 reduces his tax liability to \$135.

**Exception 2** — You are a qualified farmer or fisherman and pay the full amount of your annual taxes on or before the first day of the third month of the next taxable year.

**Example** Joe owns a commercial fishing business on Cape Cod from which he receives more than two-thirds of his total annual income. Though he hasn't paid any estimated or withholding taxes by January 15 of the following tax year, he did pay his total tax liability on February 22.

Since Joe earns more than two-thirds of his total annual income from his commercial fishing business, he is recognized by the state as a qualified fisherman. Qualified fishermen and farmers are given until the first day of the third month of the following tax year to pay their total tax liability. Joe, therefore, would not be assessed an underpayment penalty since he paid before March 1.

**Exception 3** — You are a Massachusetts resident and were not liable for taxes during the previous taxable year, and your taxable year was 12 months long.

**Example** Elizabeth graduated from college and began her own art appraisal business. Because she was a full-time student, she did not work during her last year of school, nor did she have any Massachusetts tax liability that previous tax year. Because Elizabeth owed no taxes last year, the underpayment penalty does not apply to her situation.

**Exception 4** — Your estimated payments and withholding equals or exceeds your total tax due for the previous taxable year, and that taxable year was 12 months long.

**Example** Warren receives dividends which fluctuate in value from year to year. His 1996 tax was \$5,000, and he expects it to rise by 25% in 1997 due to increasing returns on his investment. Using the estimated tax vouchers on the dates prescribed by the payment schedule, Warren makes estimated payments of \$5,000. Late in the year, when he sells a block of stock whose value had risen sharply, he enjoys an unexpected windfall profit.

As a result of this sudden increase in income, his estimated tax also rises. The \$5,000 of estimated taxes he has paid equals only 65% of his 1997 tax liability. He is **not** subject to any underpayment penalty, however, since the amount he paid equalled his previous year's tax liability.

A waiver of the underpayment penalty is also available for one or more installments if:

- underpayment was a result of casualty, disaster or unusual circumstances; or

- you retired after reaching age 62 or became disabled during the taxable year for which the payments were due or during the taxable year preceding the year for which the payments were due and the underpayment was due to reasonable cause and not willful neglect.

## What Is Annualization of Income?

Annualization of income is a method of filing estimated taxes designed for people who earn or receive income at uneven rates over the course of the year. Rather than paying the estimated annual income tax payments in four equal portions, you may choose instead to pay varying amounts of quarterly taxes in proportion to the amount of income you've actually received so far that year. By reapportioning the amount of tax due each quarter, the annualization of income method can be understood as another exception to the underpayment penalty rule. Taxpayers who wish to annualize to reduce or eliminate their underpayment penalty should complete Form M-2210A.

### Example

*John Taxpayer estimated that his taxable business income (5.95% income) after deductions and exemptions from his Newburyport art supply business would be \$38,000. He estimated that his tax would be \$2,260. His return for the prior year showed a tax of \$3,460. Based on his estimate, John's estimated tax payment for the year was \$1,808 ( $\$2,260 \times 80\%$ ). Divided into four equal installments of 25%, each payment amount was \$452. Over the course of the year, John paid this amount with each quarterly payment voucher from Form 1-ES.*

*When filing his return on April 15, 1998, John determines that his actual taxable income was \$58,000. His total tax on this amount was \$3,450. This income level required quarterly payment amounts of \$690 to avoid underpayment penalties. Because his income for the year was earned unevenly, he decides to annualize his income for each of the payment periods to adjust his underpayment amounts. Since he had no 12% or long-term capital gain income, John figures his 5.95% taxable income for each period.*

*In completing the annualized installment worksheet as shown on the next page, John determines that his taxable 5.95% income for the first payment period (1/1–3/31) was \$9,000. Multiplied by the first annualization amount (4), John's annualized income for the first payment period is \$36,000 ( $\$9,000 \times 4$ ). Checking the Form 1 tax Tables, John figures that the tax on \$36,000 is \$2,141. Multiplying \$2,141 by the 20% applicable percentage for the first payment period, John's first installment payment using the annualized income method will be \$428.20.*

*John determines that his taxable 5.95% income for the second payment period (1/1–5/31) was \$15,000. \$15,000 times the annualization amount of 2.4 equals \$36,000. The tax on \$36,000 is \$2,141. John's annualized income installment for the second payment period is \$428.20. This is \$856.40 (\$2,141 times the applicable percentage of 40%) minus \$428.20 (the estimated tax due under the annualized installment method for the first payment period).*

*John determines that his taxable 5.95% income for the third payment period (1/1–8/31) was \$30,000. \$30,000 times the annualization amount of 1.5 equals an annualized income of \$45,000. From the tax tables, John's tax is \$2,676. John's annualized income installment for the third period is \$749.20. This is \$1,605.60 (\$2,676 times the applicable percentage of 60%) minus \$856.40 (the accumulated estimated tax due under the annualized installment method by the second payment period).*

*Finally, John determines that his taxable 5.95% income for the fourth payment period (1/1–12/31) was \$58,000. The tax table amount on \$58,000 is \$3,450. The applicable percentage for the fourth period is 80%. John's annualized income installment is \$1,154.40. This is \$2,760 (\$3,450 times 80%) minus (\$1,605.60 (the accumulated estimated tax John paid under the annualized installment method for the first three payment periods).*

*Having completed the worksheet, John transfers the amounts in line 20 to line 7 of Form M-2210 and calculates his underpayment penalties, if any, from those figures.*

**Estimated Tax Payments**

When John pays his tax with his return on April 15, 1998 he saves \$31.49 on Form M-2210 underpayment penalties by using the annualized installment method rather than the regular installment method.

**Annualized Income Installment Worksheet**

PAYMENT PERIOD	►	1/1 – 3/31	1/1 – 5/31	1/1 – 8/31	1/1 – 12/31
1. Taxable 5.95% Income each period .....		9,000	15,000	30,000	58,000
2. Annualization Amount .....		4	2.4	1.5	1
3. <i>Multiply Item 1 by Item 2</i> .....		36,000	36,000	45,000	58,000
4. Tax on amount in Item 3 (from Form 1 Tax Table) if over \$80,000, multiply by .0595.....		2,141	2,141	2,676	3,450
5. Taxable 12% Income each period.....		0	0	0	0
6. Annualization Amount .....		4	2.4	1.5	1
7. <i>Multiply Item 5 by Item 6</i> .....		0	0	0	0
8. Tax on amount in Item 7 (from Form 1 Tax Table) if over \$80,000, multiply by .12 .....		0	0	0	0
9. Total Tax. Add Items 4 and 8.....		2,141	2,141	2,676	3,450
10. Total Credits .....		0	0	0	0
11. Total tax after credits. <i>Subtract Item 10 from Item 9</i> .....		2,141	2,141	2,676	3,450
12. Applicable Percentage .....		20%	40%	60%	80%
13. <i>Multiply Item 11 by Item 12</i> .....		428.20	856.40	1,605.60	2,760
14. Enter the combined amounts of Item 20 from all preceding periods.....			428.20	856.40	1,605.60
15. <i>Subtract Item 14 from Item 13. If Less Than "0" enter "0"</i> .....		428.20	428.20	749.20	1,154.40
16. Divide Item 6 of Form M-2210 by 4 and enter the result in each column .....		690	690	690	690
17. Enter the amount from Item 19 of this worksheet for the preceding column.....			261.80	523.60	464.40
18. <i>Add Items 16 and 17</i> .....		690	951.80	1,213.60	1,154.40
19. If Item 18 is more than Item 15, subtract Item 15 from Item 18. Otherwise, enter "0" .....		261.80	523.60	464.40	0
20. Enter the smaller of Item 15 or Item 18 here and on Form M-2210, Item 7 .....		428.20	428.20	749.20	1,154.40

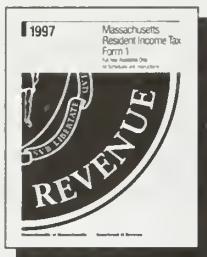
## Example of Completed Form M-2210

This section illustrates a fictitious tax situation for a taxpayer subject to a penalty for underpayment of estimated tax.

Valerie owns a restaurant in Boston. her taxable income after deductions and exemptions was \$75,000 in 1997, all of which was 5.95% income. However, Valerie neglected to remit the required estimated income tax installment payments. She pays all of her tax when she files her return on April 15, 1998.

Since Valerie's total tax liability equals \$4,461, the necessary 80% of the total equals \$3,569. Since she did not pay that amount, Valerie is subject to an underpayment penalty whose exact amount can be determined using Form M-2210. She calculates her underpayment penalty as follows:

	<p style="margin: 0;"><b>Form M-2210</b>  <b>Underpayment of Massachusetts</b>  <b>Estimated Income Tax</b></p>	<b>1997</b> <b>Massachusetts</b> <b>Department of</b> <b>Revenue</b>	
<i>Enclose this form with your income tax return. Please print in ink or type.</i>			
Name(s) as shown on page 1 of return <b>Valerie Taxpayer</b>		Social Security or U.S. Tax Identification number <b>123 45 6789</b>	
<b>Exceptions to the Underpayment Penalty</b>			
<p>You may qualify for an exception to the underpayment penalty if:</p> <p><input type="checkbox"/> Your 1997 income tax due after credits and withholding is less than \$200.</p> <p><input type="checkbox"/> You are a farmer or fisherman filing and paying your full amount due on or before March 1, 1998.</p> <p><input type="checkbox"/> You were a resident of Massachusetts for 12 months and not liable for taxes during 1996.</p> <p><input type="checkbox"/> Your estimated payments and withholding equal or exceed your 1996 tax due (where taxable year was 12 months and a return was filed).</p>			
<b>Part 1. Required Annual Payment</b>			
1. 1997 tax (from Form 1, line 24; Form 1-NR/PY, line 28; Form 2, line 39; or Form 3F) .....		<b>4,461</b>	
2. Total credits (from Form 1, line 27 and 34; Form 1-NR/PY, line 32 and 39 or Form 2, line 40) .....		<b>—</b>	
3. Balance. Subtract line 2 from line 1. Not less than "0" .....		<b>4,461</b>	
4. Enter 80% of line 3 or 66% of line 3 if you are a qualified farmer or fisherman .....		<b>3,569</b>	
5. Enter 1996 tax liability after credits (from 1996 return) (see instructions) .....		<b>3,900</b>	
6. Enter the smaller of line 4 or line 5 .....		<b>3,569</b>	
<b>Part 2. Figuring Your Underpayment</b>			
<b>Installment Due Dates</b>			
(a) April 15, 1997      (b) June 15, 1997      (c) Sept. 15, 1997      (d) Jan. 15, 1998			
<b>892.25</b> <b>892.25</b> <b>892.25</b> <b>892.25</b>			
<b>0</b> <b>0</b> <b>0</b> <b>0</b>			
<b>—</b> <b>—</b> <b>—</b> <b>—</b>			
<b>0</b> <b>0</b> <b>0</b> <b>0</b>			
<b>—</b> <b>—</b> <b>—</b> <b>—</b>			
<b>892.25</b> <b>892.25</b> <b>892.25</b> <b>892.25</b>			
<b>Part 3. Figuring Your Underpayment Penalty</b>			<b>4/15/98</b>
13. Enter the date you paid the amount in line 12 or the 15th day of the 4th month after the close of the taxable year, whichever is earlier .....			
<b>4/15/98</b>			
14. Number of days from the due date of installment to the date shown in line 13.....			
<b>365</b>			
15. Underpayment in line 12 $\times$ (number of days in line 14 + 365) $\times$ 10% .....			
<b>89.23</b>			
16. Penalty. Add all amounts shown in line 15. Enter this amount on line 40 of Form 1; line 45 of Form 1-NR/PY, line 51 of Form 2; or Form 3F .....			
<b>237.36</b>			



# Example of Completed Form 1

This section illustrates a fictitious tax situation for a married couple filing a 1997 Massachusetts Form 1.

## Introduction

Peggy and Michael Murray are married and residents of Massachusetts. Peggy and Michael have two children, both of whom are enrolled in a child care program at a nearby school. Peggy is a partner in a software design business, and Michael is employed as an editor at a Boston publishing house.

Before beginning their Form 1, Peggy and Michael complete their U.S. Form 1040. They complete their U.S. return first because it contains information that will help them complete their Massachusetts return.

## Name, Address and Filing Status

Peggy and Michael first remove the forms from the Form 1 booklet they received in the mail and verify that the information in the preaddressed area is correct. They will complete the second copy of the form first, make any necessary corrections, and copy their final calculations on to the form that they will send to DOR. They will keep the extra copy for their records.

The Murrays decide to contribute to the Mass. Election Campaign Fund. They fill in both ovals and enter the \$2 total in the box provided.

In line 1, Filing Status, the Murrays fill in the oval for Married filing a joint return. They also decide to use the whole-dollar method, so they fill in the appropriate oval.

Since the Murrays are married filing a joint return they enter their personal exemption of \$5,260 in line 2a. The Murrays are entitled to a \$1,000 exemption for each dependent claimed on their federal return. The Murrays claimed their two children on their U.S. Form 1040 so they enter 2 in the box provided. They multiply this number by \$1,000 and enter the \$2,000 result in line 2b. Also, in the space provided the Murrays enter the Social Security numbers for each of their children. They add lines 2a through 2e and enter their total exemptions of \$7,260 in line 2f. They also enter this amount in line 18.

<input type="checkbox"/> <b>FOR FULL YEAR RESIDENTS ONLY</b>			Now you can Telefile your Form 1; see instructions. <b>PRINT IN BLACK INK</b> <small>1997, ending</small>	
<b>Form 1 Massachusetts Resident Income Tax Return</b>				<b>1997</b>
<b>MICHAEL MURRAY PEGGY MURRAY 123 ANY STREET ANYTOWN MA 02345</b>		<b>012-34-5678 876-54-3210</b>		
<small>Mass. Election Campaign Fund (This contribution will not change your tax or reduce your refund.)</small>				
<small>If name/address has changed since 1996, fill in oval</small>				
<small>If taxpayer(s) is deceased, fill in appropriate oval(s) (see instructions): 1 <input type="checkbox"/> 2 <input type="checkbox"/></small>				
<small>LINE <input type="checkbox"/> \$1 You. <input type="checkbox"/> \$1 Spouse, if filing jointly . Total ► <b>S 2</b></small>				
<b>1 Filing Status: (Select one only)</b>		<input type="checkbox"/> Single <input type="checkbox"/> Head of household	<input type="checkbox"/> Married filing joint return <small>(both must sign return)</small>	<input type="checkbox"/> Married filing separate return. (Enter spouse's <small>Soc. Sec. no. in the appropriate space above</small>
<b>2 Exemptions:</b>		<input type="checkbox"/> Fill in if noncustodial parent	<input type="checkbox"/> Fill in if using whole-dollar method	

## 5.95% Income

Peggy and Michael are now ready to complete the first section of their Form 1, 5.95% income. They begin by entering Michael's salary of \$37,000 in line 3. This information is found in the state wage total of Michael's Form W-2.

Peggy and Michael also had \$300 of interest from the First Bank of Anytown Massachusetts. Because the interest is from a Massachusetts bank, it is taxed at the 5.95% rate instead of the 12% rate that applies to other interest. To complete line 5, Peggy and Michael enter the amount of interest earned in line 5a. Since the Murrays are filing a joint return, they enter their interest exemption of \$200 in the space provided in line 5b. After subtracting the interest exemption from their total interest they enter the \$100 result in the right hand column for line 5.

Schedule E, Part I: Rental, Royalty and REMIC Income or Loss			1997
			▼ If showing a loss, mark over X in box at left
<b>1a</b>	Rental and royalty income/loss (from U.S. Sch. E, Part I, line 26 and U.S. Sch. E, Part V, line 39)	1a	X , 2,000.00
<b>1b</b>	Real Estate Mortgage Investment Conduit (REMIC) income/loss (from U.S. Sch. E, Part IV, line 38)	1b	, , .
<b>1</b>	Subtotal. Combine line 1a and line 1b	1	X , 2,000.00
<b>2</b>	Massachusetts differences, explain:	2	, , .
<b>3</b>	Subtotal. Combine line 1 and line 2	3	X , 2,000.00
<b>4</b>	Abandoned Building Renovation Deduction (enclose statement — see instructions)	4	, , .
<b>5</b>	Total rental, royalty and REMIC income or loss for Mass. Subtract line 4 from line 3	5	X , 2,000.00
Schedule E, Part II: Income or Loss from Partnerships and S Corporations			
<b>1</b>	Partnership and S corporation income/loss (from U.S. Schedule E, Part II, line 31)	1	, 40,000.00
<b>2</b>	Massachusetts differences, explain:	2	, , .
<b>3</b>	Subtotal. Combine line 1 and line 2	3	, 40,000.00
<b>4</b>	Abandoned Building Renovation Deduction (enclose statement — see instructions)	4	, , .
<b>5</b>	Massachusetts adjusted partnership and S corporation income or loss. Subtract line 4 from line 3	5	, 40,000.00
<b>6</b>	12% interest and dividends if included in line 5 (for Massachusetts Schedule B, line 3)	6	, , .
<b>7</b>	Interest from Mass. banks if included in line 5 (for Form 1, line 5a or Form 1-NR/PY, line 7a)	7	, , .
<b>8</b>	Subtotal. Add line 6 and line 7	8	, , .
<b>9</b>	Total income or loss from partnerships and S corporations. Subtract line 8 from line 5	9	, 40,000.00
Schedule E, Part III: Income or Loss from Grantor-type Trusts and Non-Mass. Estates and Trusts			
<b>1</b>	Estate and trust income/loss (from U.S. Schedule E, Part III, line 36)	1	, 2,500.00
<b>2</b>	Massachusetts differences, explain:	2	, , .
<b>3</b>	Subtotal. Combine line 1 and line 2	3	, 2,500.00
<b>4</b>	Abandoned Building Renovation Deduction (enclose statement — see instructions)	4	, , .
<b>5</b>	Massachusetts adjusted trust and estate income/loss. Subtract line 4 from line 3	5	, 2,500.00
<b>6</b>	Estate or nongrantor-type trust income taxed on Massachusetts Form 2, if included in line 5	6	, , .
<b>7</b>	Grantor-type trust and non-Massachusetts estate and trust income. Subtract line 6 from line 5	7	, , .
<b>8</b>	12% interest and dividends if included in line 7 (for Massachusetts Schedule B, line 3)	8	, , .
<b>9</b>	Adjustments of 5.95% income (enclose statement)	9	, , .
<b>10</b>	Subtotal. Combine line 8 and line 9	10	, , .
<b>11</b>	Income or loss from grantor-type trusts & non-Mass. estates & trusts. Subtract line 10 from line 7	11	, 2,500.00

Peggy and Michael had a loss of \$2,000 from the rental of a cottage they owned. They complete Schedule E, Part I. Since they are reporting a loss they mark over the X in the box to the left of lines 1a, 1, 3 and 5 on Schedule E, Part I.

Peggy earned net income of \$40,000 from her share of a business in which she is a partner. Because she is involved in a partnership, Peggy completes Massachusetts Schedule E, Part II.

Michael also had trust income of \$2,500 during the year. To report this income, Michael completes Schedule E, Part III. They add the amount from Schedule E, Part I, line 5, Schedule E, Part II, line 9 and Schedule E, Part III, line 11 and enter the total of \$40,500 in Form 1, line 7.

Michael received \$1,000 for serving as executor of an estate. The Murrays complete Schedule X, Other Income to report this amount. They enter the \$1,000 amount and in the space provided print a brief explanation.

To complete the calculations for their 5.95% income, Peggy and Michael add the amounts in lines 3 through 9 and enter the total in line 10, Total 5.95% income. Their total 5.95% income is \$78,600.

## Example of Completed Form 1

1997

**Schedule X. Other Income** Enclose with Form 1 or Form 1-NR/PY

<b>1</b> Alimony received (from U.S. return) (full-year residents and part-year residents only — see instructions) .....	► 1	, , , ,
Enter payer's name _____ and S.S. # _____		
<b>2</b> Taxable IRA/Keogh distributions (see instructions). Enter taxable IRA/Keogh distribution amount in line 2 .....	► 2	, , , ,
Amount of contributions previously taxed by Massachusetts _____		
Total amount distributed to date _____		
<b>3</b> Winnings, fees and other 5.95% income (list sources and amounts). Not less than "0." Note: Gambling losses are not deductible under Massachusetts law.  Received \$1,000 as executor of John Smith's estate _____	Total ... ► 3	, , , , 1,000.00
<b>4</b> Total other taxable 5.95% income. Add lines 1, 2 and 3. Not less than "0." Enter here and on Form 1, line 9 or Form 1-NR/PY, line 11 .....	► 4	, , , , 1,000.00

**Deductions**

Michael refers to his Form W-2 to determine the amount of Social Security (FICA) that he paid for the year. Since Michael paid more than the maximum allowable deduction of \$2,000, he enters his maximum \$2,000 deduction in item 11a. To complete item 11b, Peggy refers to U.S. Schedule SE, to determine the amount of Social Security Self-Employment Tax she paid during 1997. Peggy is also limited to the maximum deduction of \$2,000, which she enters in item 11b. The Murrays add items 11a and 11b and enter the \$4,000 result in line 11.

To determine their allowable 1997 child care deduction in line 12, Peggy and Michael complete the worksheet in the instructions. This worksheet takes into account the differences between the Massachusetts and federal child care rules. After completing the worksheet, Peggy and Michael calculate the amount of their deduction to be \$2,400. They enter this amount in line 12. They also enter the name and ID number of the child care provider in the space provided.

The Murrays were charged a \$200 penalty on early savings withdrawal. They enter this amount on line 2 of Schedule Y, Other Deductions.

Since the Murrays do not qualify for any further deductions, they add lines 11 through 15 and enter their total deductions, \$6,600, in line 16.

**Schedule Y. Other Deductions** Enclose with Form 1 or Form 1-NR/PY

<b>1</b> Allowable employee business expenses (from worksheet in instructions). Enclose U.S. Form 2106 or 2106-EZ (nonresidents and part-year residents, this deduction must be related to income reported on Form 1-NR/PY) .....	► 1	, , , ,	<input type="checkbox"/>
Enter name and ID number of child care provider _____			
<b>2</b> Penalty on early savings withdrawal (from U.S. return) (nonresidents and part-year residents, this deduction must be related to income reported on Form 1-NR/PY) .....	► 2	, , , , 2,000.00	<input type="checkbox"/>
Enter name and ID number of child care provider _____			
<b>3</b> Alimony paid (from U.S. return). Part-year residents, enter the amount paid while a Mass. resident; nonresidents, multiply alimony paid by line 14g of Form 1-NR/PY .....	► 3	, , , ,	<input type="checkbox"/>
Enter name and ID number of child care provider _____			
<b>4</b> Amounts excludable under MGL Ch. 41, sec. 111F or U.S. tax treaty included in Form 1, line 3 or Form 1-NR/PY, line 5 .....	► 4	, , , ,	<input type="checkbox"/>
Fill in applicable oval: Income received by a firefighter or police officer incapacitated in the line of duty, per MGL Ch. 41, sec. 111F (enclose statement from employer). _____			
Income exempt under U.S. tax treaty. Enter country name: _____ Enclose U.S. Form 1042-S.			
Enter income code number (from U.S. Form 1042-S) _____			
Enter tax treaty article citation (from U.S. Publication 901) _____			
<b>5</b> Deductible amount of qualified contributory pension income from another state or political subdivision included in Form 1, line 4 or Form 1-NR/PY, line 6 (see instructions) .....	► 5	, , , ,	<input type="checkbox"/>
Enter name of state or political subdivision _____			
<b>6</b> College Tuition Deduction (from worksheet in Instructions) .....	► 6	, , , ,	<input type="checkbox"/>
Enter S.S. # of qualifying student(s) (yourself or dependent(s)) _____			
Enter name(s) of qualifying college(s) _____			
<b>7</b> Total other deductions. Add lines 1-6. Enter here and on Form 1, line 15 or Form 1-NR/PY, line 19 ... ► 7	► 7	, , , , 2,000.00	<input type="checkbox"/>

To arrive at their 5.95% Income after deductions, Peggy and Michael subtract line 16 from line 10. They enter the \$72,000 result in line 17.

### 5.95% Tax

To arrive at their taxable 5.95% income, Peggy and Michael subtract their total exemptions in line 18 from their total 5.95% income after deductions in line 17. They enter their taxable 5.95% income of \$64,740 in line 19. Based on the amount in line 19, Peggy and Michael use the green tax table in the back of the Form 1 booklet to compute their 5.95% tax of \$3,851. They enter this amount in line 20.

### 12% Income

To compute interest and dividends subject to 12% tax, Peggy and Michael complete Massachusetts Schedule B. After combining their interest and dividend income from their federal return, Peggy and Michael subtract the items that are not taxed at 12%. On U.S. Form 1040, Schedule B, Peggy and Michael reported a total of \$1,000 of interest and dividends. Of this amount, \$300 was reported as Massachusetts bank interest in line 5, and \$400 was U.S. Savings Bond Interest which is not taxable in Massachusetts. These amounts are subtracted from total interest and dividends leaving \$300 of taxable 12% interest and dividends.

Schedule B. 12% Income — Interest, Dividends and Certain Capital Gains and Losses			1997
<b>Part 1. 12% Interest and Dividend Income</b>			
If you received any interest income other than interest from savings deposits in Massachusetts banks or if you received more than \$400 in gross dividend income, complete Schedule B. Otherwise, enter your dividends of \$400 or less on Form 1, line 21a or Form 1-NR/PY, line 25a. In all cases enter your 5.95% interest on savings in Mass. banks on Form 1, line 5a or Form 1-NR/PY, line 7a.			
1	Total interest income (from U.S. Form 1040 or 1040A, line 8a and line 8b; 1040EZ, line 2; or U.S. Telefile Tax Record, Item C).....	, , ,	8 0 0 . 0 0
2	Total gross dividends (from U.S. Schedule B, Part II, line 6, or U.S. Schedule 1, Part II, line 6. If U.S. Schedule B not filed, from U.S. 1040 or 1040A, line 9).....	, , ,	2 0 0 . 0 0
3	Other interest and dividends not included above (enclose statement).....	, , ,	· · ·
4	Total interest and dividends. Add lines 1, 2 and 3 .....	, , ,	1 , 0 0 0 . 0 0
5	Capital gain distributions, 100% (from U.S. Schedule B, Part II, line 7). See Mass. Schedule D, line 5 ... 5	, , ,	· · ·
6	Total interest from Massachusetts banks (from Form 1, line 5a or Form 1-NR/PY, line 7a).....	, , ,	3 0 0 . 0 0
7	Other interest and dividends to be excluded (enclose statement) (this includes interest on U.S./Commonwealth debt obligations and interest and dividends taxed directly to Mass. estates and trusts) .. 7	, , ,	4 0 0 . 0 0
8	Subtotal: Line 4 minus lines 5, 6 and 7. If you have no short-term capital gains or losses, carryover short-term losses from prior years, long-term gains on collectibles and pre-1996 installment sales, gains or losses from the sale, exchange or involuntary conversion of property used in a trade or business, allowable deductions from your trade or business, or excess exemptions, omit lines 9-20. Enter this amount in line 21 and on Form 1, line 21a or Form 1-NR/PY, line 25a .. 8	, , ,	3 0 0 . 0 0
<b>Part 2. Short-Term Capital Gains/Losses &amp; Long-Term Gains on Collectibles</b>			
9	Short-term capital gains (included in U.S. Schedule D, lines 1, 2, 4 and 5, column (f)) .....	, , ,	· · ·
10	Long-term capital gains on collectibles and pre-1996 installment sales (from Mass. Sched. D, line 11) .. 10	, , ,	2 , 0 0 0 . 0 0
11	Gain on the sale, exchange or involuntary conversion of property used in a trade or business and held for one year or less (from U.S. Form 4797).....	, , ,	· · ·
12	Add lines 8, 9, 10 and 11.....	, , ,	2 , 3 0 0 . 0 0
13	Allowable deductions from your trade or business (from Mass. Schedule C-2, line 10) .....	, , ,	· · ·
14	Subtotal: Subtract line 13 from line 12 .....	, , ,	2 , 3 0 0 . 0 0
15	Short-term capital losses (included in U.S. Schedule D, lines 1, 2, 4 and 5, column (f)) .....	, , ,	5 0 0 . 0 0
16	Loss on the sale, exchange or involuntary conversion of property used in a trade or business and held for one year or less (from U.S. Form 4797) .....	, , ,	· · ·
17	Prior short-term unused losses for years beginning after 1981 (from 1996 Massachusetts Schedule B, line 22) .....	X , , ,	4 0 0 . 0 0
18	Combine lines 14, 15, 16 and 17. If the total is a loss, omit lines 19 and 20. Enter "0" on line 21 and enter the amount from line 18 in line 22. If a positive amount, go to line 19 .....	, , ,	1 , 4 0 0 . 0 0
19	Long-term gain deduction. If there is no entry in line 10, enter "0." If line 10 shows a gain, enter 50% of line 10 less 50% of losses in lines 15, 16 and 17, but not less than "0" .....	, , ,	5 5 0 . 0 0
20	Excess exemptions (from worksheet in Instructions) only if single, head of household or married filing jointly .. 20	, , ,	· · ·
21	Total gross 12% interest, dividends and certain capital gains and losses. Subtract lines 19 and 20 from line 18. Not less than "0." Enter result here, and on Form 1, line 21a or Form 1-NR/PY, line 25a .....	, , ,	8 5 0 . 0 0

## Example of Completed Form 1

The Murrays also had a short-term capital loss of \$500 and a \$2,000 long-term gain on collectibles from the sale of Michael's baseball card collection. They also have available an unused prior year short-term loss of \$400. After completing Schedule B, Peggy and Michael determine, that after using their long-term net collectible gain deduction, they have \$850 of taxable 12% income.

The Murrays enter the \$850 amount from Schedule B, line 21 in Form 1, line 21a. To compute their tax on 12% income they multiply that amount by 12% and enter \$102 in line 21 of Form 1.

Schedule D. Long-Term Capital Gains and Losses Excluding Collectibles				1997
For lines 1-7, 9 and 11, enter in the appropriate column amounts from the sale, exchange or involuntary conversion of Massachusetts capital assets:				
A. Held more than one year but not more than two years ▼ If showing a loss, mark over X in box at left				
B. Held more than two years ▼ If showing a loss, mark over X in box at left				
1	Enter amounts included in U.S. Sch. D, line 8, col. f	1	3,500.00	1,500.00
2	Enter amounts included in U.S. Sch. D, line 9, col. f	2		
3	Enter amounts included in U.S. Sch. D, line 11, col. f	3		
4	Enter amounts included in U.S. Sch. D, line 12, col. f	4		
5	Enter amounts included in U.S. Sch. D, line 13, col. f	5		
6	Massachusetts long-term capital gain from the sale of your home (not included in line 3). Enclose copy of U.S. Form 2119. See Instructions	6		
7	Massachusetts long-term capital gains and losses included in U.S. Form 4797, Part II (not included in lines 1 through 5). See instructions.	7		
8	Combine lines 1 through 7	8	3,500.00	1,500.00
9	Differences. If any (include net gains/losses taxed directly to Mass. estates/trusts). See instructions	9		
10	Exclude/subtract line 9 from line 8	10	3,500.00	1,500.00
11	Long-term gains on collectibles and pre-1996 installment sales. See instructions. Also, enter this amount in Schedule B, line 10	11	1,500.00	500.00
12	Subtotal. Subtract line 11 from line 10	12	2,000.00	1,000.00
13	Excess exemptions (from worksheet in instructions) only if single, head of household or married filing jointly	13		
14	Adjusted long-term capital gains/losses. Subtract line 13 from line 12	14	2,000.00	1,000.00
15	Multiply line 14 (col. A by .05, enter result below)	15	100.00	40.00
16	Tax on long-term capital gains. Combine line 15A and line 15B	16		140.00
17	Long-term capital gains tax credit from previous year, if any (from 1996 Mass. Schedule D, line 13). This must be entered as a negative amount; be sure to mark over X in box	17		
18	Combine line 16 and line 17. If result is "0" or greater, enter on Form 1, line 22 or Form 1-NR/PY, line 26 and skip lines 19 and 20. If negative, enter a "0" on Form 1, line 22 or Form 1-NR/PY, line 26, and enter line 18 as a positive amount in Schedule B-1, line 1; complete lines 19 and 20	18		140.00

The Murray's also had a long-term capital gain of \$5,000 which they reported on their U.S. Form 1040, Schedule D, line 8, column f. Included in this total is \$2,000 of long-term gains from the sale of stock which they had held for 18 months and \$1,000 of long-term gains from the sale of stock which they had held for 30 months. Also included in this total is \$2,000 of long-term gains on collectibles from the sale of Michael's baseball card collection. Of this \$2,000 long-term gain on collectibles, \$1,500 was from the sale of cards Michael had held for 16 months and \$500 was from the sale of cards Michael had held for 34 months. The Murray's total the long-term gains from the sales of assets which they had held more than one year but not more than two years and enter \$3,500 in Schedule D, line 1, column A. The Murray's total the long term gains from the sale of assets which they had held for more than two years and enter \$1,500 in Schedule D, line 1, column B.

The Murray's complete Schedule D and compute a tax on long-term capital gains of \$140 which they enter in Form 1, line 22.

### Adjustments to Tax

To compute their total tax, the Murrays add line 20 (5.95% tax), line 21 (12% tax) and line 22 (long-term capital gains tax) and enter the result, \$4,093, in line 24.

Michael refers to this Form W-2 to determine that the amount of his Massachusetts tax withheld is \$1,744. He enters that amount in line 31.

On their 1996 Massachusetts tax return Peggy and Michael had requested that \$600 of their overpayment be applied to their 1997 estimated taxes. They enter this amount in line 32.

FOR FULL YEAR RESIDENTS ONLY  Now you can Telefile your Form 1; see instructions. PRINT IN BLACK INK

Directions must be filled in completely. Example Photocopies of this form are not acceptable. For the year January 1-December 31, 1997 or other taxable year beginning 1997, ending

**Form 1 Massachusetts Resident Income Tax Return 1997**

MICHAEL MURRAY  
PEGGY MURRAY  
123 ANY STREET  
ANYTOWN MA 02345 012-34-5678  
876-54-3210

Mass. Election Campaign Fund (This contribution will not change your tax or reduce your refund.) If name/address has changed since 1996, fill in oval: If taxpayer(s) is deceased, fill in appropriate oval(s) (see instructions): 1.  2.

**1 Filing Status:** (Select one only)  Single  Head of household  Married filing joint return (both must sign return)  Married filing separate return. (Enter spouse's Soc. Sec. no. in the appropriate space above.)  Fill in if using whole-dollar method

**2 Exemptions:**  Fill in if noncustodial parent

a. Personal exemptions. If single or married filing separately, enter \$2,630. If head of household, enter \$4,065. If married filing jointly, enter \$5,260.  5,260.00

b. Number of dependents. (Do not include yourself or your spouse.) Enter number  2  $\times$  \$1,000.00  2,000.00 Enter dependents' Social Security numbers. See page 10 if born in 1997. 987-65-4310  
123-45-6789

c. Age 65 or over before 1998:  You +  Spouse =   $\times$  \$700.00  , .

d. Blindness:  You +  Spouse =   $\times$  \$2,200.00  , .

e. Other: 1. Medical/Dental  2. Adoption  (from U.S. Sch. A, line 4) (from worksheet)  1 + 2 =  , .

f. Total exemptions. Add items a, b, c, d and e. Enter here and on line 18  2f  7,260.00

3 Wages, salaries, tips and other employee compensation (from all Forms W-2)  3  3,700.00

4 Taxable pensions and annuities (see instructions, page 11)  4  , , .

5 Mass. bank interest: a.  3,000.00 - b. exemption  2,000.00 =  1,000.00 Exemption: If married filing jointly, subtract \$200 from Total; otherwise subtract \$100 & enter result Not less than "0."  ▼ If showing a loss, mark over X in box at left

6 Business/profession or farm income/loss (enclose Mass. & U.S. Sch. C or C-EZ or U.S. Sch. F)  6  , , .  X

7 Rental, royalty, REMIC, partnership, S corp., frust income/loss (enclose Mass. & U.S. Sch. E)  7  4,050.00

8 Unemployment compensation (from U.S. return or U.S. Telefile Tax Record)  8  , , .

9 Other income (alimony, taxable IRA/Keogh distr., winnings, fees) from Sch. X, line 4 (enclose Sch. X)  9  1,000.00 Not less than "0."

10 TOTAL 5.95% INCOME. Add lines 3 through 9. (Be sure to subtract any loss(es) in lines 6 or 7)  10  7,860.00  ▲ If showing a loss, mark over X in box at left

11 Amount paid to Soc. Sec., Medicare, R.R., U.S. or Mass. retirement. Not more than \$2,000 per person. a. You  2,000.00 + b. Spouse  2,000.00 a + b =  4,000.00

12 Child under age 15, or disabled dependent/spouse care expenses (from worksheet on page 14) Enter provider's name(s) and ID number(s) Anytown Child Care 002-13-4567  12  2,400.00  X

13 Dependent member of household under age 12 on 12/31/97 (only if not claiming line 12)  13  , . Enter one \$1,200 amount and the child's name

14 50% rental deduction (from worksheet on p. 14). Not more than \$2,500, or \$1,250 if married filing separately  14  , . Enter landlord's name(s)

15 Other deductions from Schedule Y, line 7 (enclose Schedule Y)  15  , 2,000.00  X

16 TOTAL DEDUCTIONS. Add lines 11 through 15  16  , 6,600.00

17 5.95% INCOME AFTER DEDUCTIONS. Subtract line 16 from line 10. Not less than "0"  17  7,200.00

Attach, with a single staple, state copy of Forms W-2, W-2G and 1099 (showing Mass. withholding).

**Example of Completed Form 1**

Peggy had made estimated tax payments of \$2,500 during 1997. This amount is entered in line 33.

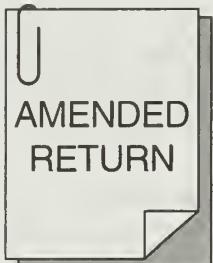
Since their total payments are greater than their total tax, the Murrays have an overpayment of \$751 which they enter in line 37. Massachusetts allows taxpayers to elect to have part or all of their overpayment applied to their estimated taxes for the following year. The Murrays request that \$600 of their overpayment be applied to their 1998 estimated tax in line 38. The balance of their overpayment — \$151 — is entered in line 39. This is the amount of their refund.

**Note:** Once an election is made to apply your overpayment to your 1998 estimated tax, it cannot be refunded later or applied to any additional tax you may owe for 1997. The amount applied to your 1998 estimated tax can only be claimed as a credit on your 1998 Massachusetts return.

Before filing their return, Peggy and Michael check their calculations. Both Peggy and Michael sign and date the return, and keep a copy of the return for their records.

1997 FORM 1 PAGE 2

17	5.95% INCOME AFTER DEDUCTIONS (from other side). Not less than "0." . . . . .	17	, 7 2,0 0 0,0 0	
18	Exemption amount (from line 2, item 1) . . . . .	18	, 7 2 6 0,0 0	
19	5.95% INCOME AFTER EXEMPTIONS. Subtract line 18 from line 17. Not less than "0." . . . . .	19	, 6 4,7 4 0,0 0	
20	TAX ON 5.95% INCOME (from tax table). If line 19 is more than \$80,000, multiply by .0595 . . . . .	20	, 3,8 5 1,0 0	
21	12% INCOME (from Schedule B, line 21). a. ► , 8 5 0,0 0 × .12 = . . . . .	21	, , 1 0 2,0 0	
22	TAX ON LONG-TERM CAPITAL GAINS (from Schedule D, line 18). Not less than "0." . . . . . ► 22	22	, , 1 4 0,0 0 <input checked="" type="checkbox"/>	
23	If excess exemptions were used in calculating lines 21 or 22, fill in oval (see instructions) ►			
24	If you qualify for No Tax Status, fill in oval and enter "0" on line 24 (see worksheet on p. 16) ►	24	, 4,0 9 3,0 0	
25	<b>TOTAL TAX.</b> Add lines 20, 21 and 22 . . . . .	25	, , , ,	
26	Limited Income Credit (from worksheet on page 17) . . . . . ► 25	25	, , , ,	
26	Credits: Long-term capital gains tax credit applied to 12% Income (enclose Sch. 8-1) Income tax paid to another state or jurisdiction (from worksheet on p. 18) (encl. other state's return) Energy (encl. Sch. EC) <input checked="" type="checkbox"/> Lead Paint (encl. Sch. LP) <input checked="" type="checkbox"/> Economic Opportunity Area (encl. Sch. EOA) <input checked="" type="checkbox"/> Full Employment Credit (encl. Sch. FEC) <input checked="" type="checkbox"/> Septic Credit (encl. Sch. SC) Total ► 26	26	, , , , <input checked="" type="checkbox"/>	
27	Total credits. Add line 25 and line 26 . . . . .	27	, , , ,	
28	<b>TAX AFTER CREDITS.</b> Subtract line 27 from line 24. Not less than "0." . . . . .	28	, 4,0 9 3,0 0	
29	Voluntary Contributions: Total of items a, b, c and d listed below . . . . .	29	, , , ,	
	► , * ► , * ► , * ► , * ► , *			
	a. Organ Transplant Fund      b. Endangered Wildlife Cons      c. Mass. AIDS Fund      d. Mass. U. S. Olympic Fund			
30	<b>TAX AFTER CREDITS PLUS CONTRIBUTIONS.</b> Add line 28 and line 29 . . . . .	30	, 4,0 9 3,0 0	
31	Massachusetts income tax withheld (enclose all Mass. Forms W-2, W-2G, 1099-G & 1099-R) . . . . . ► 31	31	, 1,7 4 4,0 0	
32	1996 overpayment applied to your 1997 estimated tax (do not enter 1996 refund) . . . . . ► 32	32	, , 6 0 0,0 0	
33	1997 Massachusetts estimated tax payments (do not include amount in line 32) . . . . . ► 33	33	, 2,5 0 0,0 0	
34	Enter number of qualifying children a. ►      Enter amount from U.S. return ► × .10 = . . . . .	34	, , , ,	
	Enter Social Security number(s) of qualifying children: _____			
35	Payments made with extension (enclose Form M-4868) . . . . . ► 35	35	, , , ,	
36	<b>TOTAL TAX PAYMENTS.</b> Add lines 31 through 35 . . . . .	36	, 4,8 4 4,0 0	
37	Overpayment. If line 30 is smaller than line 36, subtract line 30 from line 36 . . . . . ► 37	37	, , 7 5 1,0 0	
38	Amount of overpayment you want applied to your 1998 estimated tax . . . . . ► 38	38	, , 6 0 0,0 0	
39	Refund Amount. Subtract line 38 from line 37. Mail to Mass. OOR, PO Box 7000, Boston, MA 02204 . . . . . ► 39	39	, , 1 5 1,0 0	
	► , * ► , * ► , * ► , * ► , *			
	Routing Number — First two digits must be 01-12 or 21-32      Account Number			
40	<b>Tax Due.</b> If line 30 is larger than line 36, subtract line 36 from line 30. <b>Use Form PV</b> . . . . . ► 40	40	, , , ,	
	Pay in full. Write Social Security number on lower left corner of check and make payable to Commonwealth of Massachusetts. Mail to Mass. OOR, PO Box 7003, Boston, MA 02204			
	Add to total in line 40, if applicable: ►			
	► , * ► , * ► , * ► , * ► , *			
	Interest      Penalty      M-2210 amount			
	► , * ► , * ► , * ► , * ► , *			
	<b>SIGN HERE — Under penalties of perjury, I declare that to the best of my knowledge and belief this return and enclosures are true, correct and complete.</b>			
41	You signature	Date	Paid Preparer's signature	Social Security number
	Michael Murray	3 3 98		Date
	Spouse's S.S. # if filing jointly	Date	Employer identification number	► Fill in if self-employed
	Peggy Murray	3 3 98		
	Yo. daytime phone	Spouse's daytime phone		
	617 555-1212	508 555-1212		
	Form Name (for yours if self-employed) and address			



# Amended Returns, Form EICA, Earned Income Credit Amendment Form, or

## **What Should I Do If I Make a Mistake or Leave Something Out on My Return?**

If after filing your income tax return you receive an additional statement of income such as a Form 1099 or a W-2 or discover that an error was made, do not submit a second tax return. If corrections are necessary, you must file an Amended Telefile Return, Form ECIA, Earned Income Credit Amendment Form, or Form 33X, Massachusetts Amended Income Tax Return. These forms are available at any Department of Revenue location, or you may have one mailed to you by calling (617) 887-MDOR or toll-free in Massachusetts at 1-800-392-6089.

## **Who May File Amended Telefile?**

You should file the Amended Telefile Worksheet if:

- you have access to a touch-tone telephone;
- your original 1997 tax return was filed and accepted through Telefile at least four business days ago;
- the total number of Form(s) W-2 reported between Telefile and Amended Telefile does not exceed five;
- you are reporting additional and/or corrected W-2 information such as wages, tips, state withholding and Social Security withholding, as reported on Form(s) W-2 or W-2C, or additional winnings and fee income as reported on Forms 1099 or 1099-MISC;
- you are reporting additional and/or corrected unemployment compensation;
- you did not previously claim the Earned Income Credit on Telefile (amending the amount of the Earned Income Credit previously reported must be done by filing Form 33X);
- you are changing your filing status to single (from head of household) or to head of household (from single);
- you are amending the number of dependents claimed;
- you are increasing or decreasing the amount of Massachusetts bank interest or rent paid only; or
- you are amending the dependent member under age 12 deduction.

If you meet these criteria, you should complete the Amended Telefile Worksheet.

**Note:** The Amended Telefile system is available from mid-February until October.

## **When May I File the Earned Income Credit Amendment Form?**

You may file the Earned Income Credit Amendment Form if:

- no entry was made for the Earned Income Credit when your return was originally filed;
- you are amending the Earned Income Credit only and you are making no other changes to your return;
- you are a full year resident; and
- you are amending the Earned Income Credit for tax year 1997 only.

If you meet these criteria, you should file Form EICA, Earned Income Credit Amendment Form.

## **When Should I File Form 33X?**

You should file Form 33X if you are not eligible to file Amended Telefile or the Earned Income Credit Amendment Form or your return is adjusted or audited by the Internal Revenue Service (IRS), resulting in a change in the income you reported on your original return for Massachusetts purposes.

**Note:** The IRS shares the results of audits with the Massachusetts Department of Revenue (DOR). You must report changes made by the IRS to DOR within a year of the time a final determination is reached.

## **Is An Amended Return the Only Form I Have to File to Change My Original Return?**

Generally, if you have filed and later discover that you must amend your individual income tax return to make an additional payment or to request a refund, you need only file an amended return. If, however, you are requesting a refund or a reduction in the tax due **and** have previously received a bill or other adjustment to your tax return from DOR, **do not** use an amended return. You must file an Application for Abatement, Form CA-6, to request a refund or a reduction in tax when you have been billed, or your return has been previously adjusted by DOR. Form CA-6 may be obtained by visiting any DOR location or calling our Customer Service Bureau at (617) 887-MDOR or toll-free in Massachusetts at 1-800-392-6089. See the discussion regarding bills and notices in the section on "Administrative Information."

You must attach revised schedules for any item calculated on schedules which you are changing on your amended return. For example, if you are changing the amount of income you reported from your business or profession, you must attach a new Schedule C to your Form 33X. If you are reporting a federal audit, you must attach the final audit results. The IRS will often provide this information to you on an IRS Revenue Agent's Report or on a Form CP-2000.

## **Is There a Time Limit on When I Can File an Amended Return?**

Yes. You are generally only allowed to request a refund of taxes paid if one of these conditions is met:

1. The request is made within three years of the original due date of the return without regard for any extensions which were granted for that return. For example, a 1996 tax return is due on April 15, 1997, so a reduction in the tax paid on that return may be requested up until April 15, 2000 unless a later date can be reached by applying the second condition below.
2. The request is made within one year from the date you receive the final determination of an IRS audit which results in a change to Massachusetts income. For example, the IRS audits a 1996 return and makes a final determination on January 21, 2000 that the taxpayer overstated income. The taxpayer has until January 21, 2001 to request a refund from Massachusetts based on the audit.

If, however, you are reporting an additional tax due, there is no time limit for filing the Form 33X. You may be required to pay interest and penalties if you file Form 33X after the due date of the return.

## **Will I Owe Any Interest or Penalties?**

You will be required to pay interest and penalties if your amended return fits into the categories explained below.

**Interest:** You are making a tax payment after the due date of the original return.

**Federal Change Penalty:** This penalty applies if you fail to file Form 33X within one year of a final determination of the federal audit which increased your Massachusetts taxable income. The penalty is 10% of the additional tax or \$100, whichever is less.

## Example of a Completed Form 33X

This example of a completed Form 33X is based on the fictitious couple Peggy and Michael Murray who previously filed a Form 1.

After completing and filing their Form 1, Massachusetts Individual Income Tax Return, the Murrays discover that they had failed to report all of their income. Peggy had received \$1,500 in annuity income.

First, Peggy and Michael complete the registration and filing status section of Form 33X. Next, they enter in column A the amounts from their Form 1. In column B they enter the items that have changed. In column C, they enter the corrected amounts.

 <b>Form 33X</b> <b>Massachusetts Amended</b> <b>Individual Income Tax Return</b> (For tax years 1993-1997)																																																																																																							
Registration	19 _____, and ending 19 _____																																																																																																						
Filing Status	Your Social Security number 012-34-5678																																																																																																						
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="2" style="padding: 2px;">For calendar year 19 _____ or taxable year beginning</td> <td colspan="2" style="padding: 2px;">Last name Murray</td> </tr> <tr> <td colspan="2" style="padding: 2px;">Your first name and initial Michael</td> <td colspan="2" style="padding: 2px;">Spouse's first name and initial Peggy</td> </tr> <tr> <td colspan="2" style="padding: 2px;">Present street address (&amp; apartment number) 123 Any Street</td> <td colspan="2" style="padding: 2px;">Last name Murray</td> </tr> <tr> <td colspan="2" style="padding: 2px;">City/Town/PO Box number Anytown</td> <td style="padding: 2px;">State MA</td> <td style="padding: 2px;">Zip 02345</td> </tr> <tr> <td colspan="4" style="text-align: right; padding: 2px;">Check box if address changed since filing original return.</td> </tr> </table>				For calendar year 19 _____ or taxable year beginning		Last name Murray		Your first name and initial Michael		Spouse's first name and initial Peggy		Present street address (& apartment number) 123 Any Street		Last name Murray		City/Town/PO Box number Anytown		State MA	Zip 02345	Check box if address changed since filing original return.																																																																																			
For calendar year 19 _____ or taxable year beginning		Last name Murray																																																																																																					
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Check box if address changed since filing original return.																																																																																																							
<p>Form 33X must be used if, after filing your Massachusetts income tax return, you discover one or more errors or omissions. This form must also be used to report the results of an IRS audit or adjustment. DOR and the IRS routinely share computer tapes and audit results. Differences, other than those allowed under state law, will be identified and may result in audit or further investigation. Time limits for filing Form 33X are explained on page 3. Caution: If you have received a bill or other adjustment notices about your state income tax liability, do not use this form to request a refund. Use Form CA-6, Application for Abatement.</p>																																																																																																							
Resident from _____ to _____	1. Were you a Mass. resident for the full taxable year? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (If part-year resident, give dates below.)																																																																																																						
Nonresident from _____ to _____ If amending to change resident status, see instructions	3. Filing status claimed on original return (check one): <input type="checkbox"/> Single <input checked="" type="checkbox"/> Married filing jointly <input type="checkbox"/> Head of household (for tax year 1995 and thereafter) <input type="checkbox"/> Married filing separately <input type="checkbox"/> Unmarried head of household (for tax year 1994 only) <input type="checkbox"/> Married head of household (for tax year 1994 only)																																																																																																						
Filing Status	4. Filing status claimed on this return (check one): <input type="checkbox"/> Single <input checked="" type="checkbox"/> Married filing jointly <input type="checkbox"/> Head of household (for tax year 1995 and thereafter) <input type="checkbox"/> Married filing separately <input type="checkbox"/> Unmarried head of household (for tax year 1994 only) <input type="checkbox"/> Married head of household (for tax year 1994 only)																																																																																																						
5.95% Income	2. Are you amending your return as a result of a federal change? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No. If yes, attach copy of federal audit results. Do you already owe and have you been billed for additional state income tax for the year you are amending? If yes, see instructions. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No																																																																																																						
Tax	A. Amount on original return      B. Net change — Increase or (decrease) (explain on page 2)      C. Corrected amount (combine column A and column B)																																																																																																						
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="4" style="text-align: center; font-size: small;"> <input checked="" type="checkbox"/> Check here if using whole-dollar method. </td> </tr> <tr> <td colspan="4" style="text-align: center; font-size: small;"> 5. Total 5.95% income. Enter amount from page 2, line 35 in column B. You must enter the amount from your original return in line 5A. </td> </tr> <tr> <td colspan="4" style="text-align: center; font-size: small;"> 6. Total deductions. Enter amount from page 2, line 41 in column B. </td> </tr> <tr> <td colspan="4" style="text-align: center; font-size: small;"> 7. Total 5.95% income after deductions. Subtract line 6 from line 5. </td> </tr> <tr> <td colspan="4" style="text-align: center; font-size: small;"> 8. Total exemptions. Enter amount from page 2, line 48 in column B. </td> </tr> <tr> <td colspan="4" style="text-align: center; font-size: small;"> 9. Taxable 5.95% income. 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The Murrays explain in line 55 the reason for the change. Both Peggy and Michael sign and date the form. They attach a check made payable to the Commonwealth of Massachusetts for the additional tax of \$89. Since the Murrays are filing their amended return before April 16th, they will not owe interest on the additional tax due. They make a copy of the amended return for their records. Finally they mail the completed Form 33X with payment to the address for payments indicated on the bottom of Form 33X.

Enter amount of increase or (decrease) to any of the items listed below that are being changed. State the reasons for the changes in the space in line 55.																		
5.95% Income	Deductions	Exemptions	Credits & Withholding															
<p>28. Wages: increase (decrease) <b>28 ▶ 0.00</b></p> <p>29. Pensions and annuities: increase (decrease) <b>29 ▶ 1,500.00</b></p> <p>30. Mass. bank interest: increase (decrease) <b>30 ▶ 0.00</b></p> <p>31. Business, profession, farm income: increase (decrease) <b>31 ▶ 0.00</b></p> <p>32. Rental, royalty, REMIC, partnership, S corp., trust income: increase (decrease) <b>32 ▶ 0.00</b></p> <p>33. Unemployment comp: increase (decrease) <b>33 ▶ 0.00</b></p> <p>34. Other income (alimony, taxable IRA/Keogh dist., winnings, fees): increase (decrease) <b>34 ▶ 0.00</b></p> <p>35. Total increase (decrease) to 5.95% Income. Add lines 28 through 34 and enter total on page 1, line 5, column B <b>35 ▶ 1,500.00</b></p>	<p>36. Soc. Sec., Medicare, RR, U.S. or Mass. Ret.: increase (decrease) You <b>▶</b> Spouse <b>▶</b> Total <b>36 ▶</b></p> <p>37. Child under 15, or disabled dependent/ spouse care expense deduction: increase (decrease) <b>37 ▶</b></p> <p>38. Dependent member of household under age 12 deduction: increase (decrease) <b>38 ▶</b></p> <p>39. 50% rental deduction: increase (decrease) <b>39 ▶</b></p> <p>40. Other deductions increase (decrease) <b>40 ▶</b></p> <p>41. Total Increase (decrease) to deductions. Add lines 36 through 40 and enter total on page 1, line 6, column B <b>41 ▶</b></p>	<p>42. Personal exemptions: increase (decrease) <b>42 ▶</b></p> <p>43. Number of dependent children: increase (decrease) <math>\times \\$1,000</math> <b>43 ▶</b></p> <p>44. Age 65 or over exemption You <b>▶</b> Spouse <b>▶</b> Total <math>\square \times \\$700</math> <b>44 ▶</b></p> <p>45. Medical exemption: increase (decrease) You <b>▶</b> Spouse <b>▶</b> Total <math>\square \times \\$2,200</math> <b>45 ▶</b></p> <p>46. Blindness exemption: increase (decrease) You <b>▶</b> Spouse <b>▶</b> Total <math>\square \times \\$2,200</math> <b>46 ▶</b></p> <p>47. Adoption fee exemption: increase (decrease) <b>47 ▶</b></p> <p>48. Total Increase (decrease) to exemptions. Add lines 42 through 47 and enter total on page 1, line 8, column B <b>48 ▶</b></p>	<p>49. No tax status, limited income credit: increase (decrease) <b>49 ▶</b></p> <p>50. Income tax paid to other state credit: increase (decrease) <b>50 ▶</b></p> <p>51. Other credits including <input type="checkbox"/> Long-Term Capital Gains Tax Credit Applied to 12% Income <input type="checkbox"/> Energy <input type="checkbox"/> Lead Paint <input type="checkbox"/> Economic Opportunity Area Credit <input type="checkbox"/> Full Employment Credit <input type="checkbox"/> Septa Credit Increase (decrease) <b>51 ▶</b></p> <p>52. Total Increase (decrease) to credits. Add lines 49 through 51 and enter total on page 1, line 14, column B <b>52 ▶</b></p> <p>53. Massachusetts withholding: Enter Increase (decrease) on page 1, line 18, column B <b>53 ▶</b></p>															
<p>54. Earned income credit: Number of qualifying children originally claimed <b>      </b>. Increase (decrease) of qualifying children <b>      </b>. Total qualifying children <b>      </b>. U.S. credit as originally filed <b>      </b>. Increase (decrease) <b>      </b>. Correct U.S. credit <math>\triangleright \\$      \times 10\% \\$      </math>.</p> <p>55. Explanation of changes. Enter the line number for which you are reporting a change and give the reason for each change. If you need more space than is provided below, attach an additional statement. Also, attach all additional information, supporting forms and schedules. If reporting a federal change, attach federal audit line 4. Taxable Pensions and Annuities</p> <p>Increase of \$1,500 due to annuity income not reported on original return</p>																		
<p><b>Refund Appl.</b> Refund Application (substitute application for abatement). For reductions of tax as shown in line 22 on this amended return, and filed after the date of the original return, the taxpayer named herein makes application for abatement of the tax assessed for the period stated pursuant to the applicable Massachusetts General Laws, Chapter 62. Consent is hereby given, pursuant to Chapter 58A, section 6, for the Commissioner of Revenue to act upon this amended return after six months from the date of filing. This consent is provided to protect my rights where processing of my refund is delayed for any reason. My consent may be withdrawn at any time. If I refuse consent by striking out this section, or by withdrawing my consent, the refund will be denied (1) at the expiration of six months from the date of filing or (2) at the date consent is withdrawn, whichever is later</p> <p><b>Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct and complete. Declaration of preparer (other than taxpayer) is based on all information of which he/she has knowledge.</b></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%; vertical-align: top;">Your signature <i>Michael Murray</i></td> <td style="width: 33%; vertical-align: top;">Date 4/10/98</td> <td style="width: 33%; vertical-align: top;">Your Social Security number 012-34-5678</td> </tr> <tr> <td>Spouse's signature (if filing jointly, both must sign, even if only one had income) <i>Peggy Murray</i></td> <td>Date 4/10/98</td> <td>Spouse's Social Security number 876-54-3210</td> </tr> <tr> <td>Paid preparer's signature</td> <td></td> <td>Preparer's E.I. or Social Security number</td> </tr> <tr> <td>Address</td> <td>City/Town</td> <td>State</td> </tr> <tr> <td></td> <td></td> <td>Zip</td> </tr> </table> <p>Mail to: Massachusetts Department of Revenue, PO Box 7024, Boston, MA 02204. If making a federal change payment, mail to: Massachusetts Department of Revenue, PO Box 7020, Boston, MA 02204.</p>				Your signature <i>Michael Murray</i>	Date 4/10/98	Your Social Security number 012-34-5678	Spouse's signature (if filing jointly, both must sign, even if only one had income) <i>Peggy Murray</i>	Date 4/10/98	Spouse's Social Security number 876-54-3210	Paid preparer's signature		Preparer's E.I. or Social Security number	Address	City/Town	State			Zip
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# Administrative Information

## Where Can I Get Help in Figuring Out My Income Tax Situation?

DOR's Customer Service Bureau (CSB) can assist taxpayers with all aspects of complying with the Commonwealth's personal income tax laws, including:

- supplying forms;
- determining which forms and schedules to use;
- answering technical tax questions;
- locating a refund that is overdue;
- explaining estimated tax requirements; and
- responding to inquiries about bills, notices and abatement requests.

Taxpayers who have particularly complicated tax issues may benefit from other types of assistance DOR has to offer. Please see "Resources" on the inside back cover for a complete list of DOR offices as well as a summary of the various kinds of help DOR can provide.

## My Tax Situation is Very Complicated. How Can I Get Guidance on My Responsibilities from the Department?

DOR administers the laws governing all types of state taxes strictly according to the Massachusetts General Laws. The Department's MASSTAX Guide, produced in conjunction with West Group, is an excellent source for researching any state tax issue. The MASSTAX Guide, which is printed in five volumes, is updated quarterly and contains DOR policy statements as well as other legal developments and law changes. Along with the volumes devoted to specific taxes, such as personal income, sales and use, etc., the MASSTAX Guide has an administrative volume that describes in more detail the enforcement and appeals procedures that are outlined in this guide. The MASSTAX Guide is available at the State House Library in Boston as well as at libraries throughout the Commonwealth. Sets of the MASSTAX Guide may be purchased through West Group by calling 1-800-328-9352.

DOR's Rulings and Regulations Bureau issues public written statements that explain the Commonwealth's tax laws in detail. These documents are useful tools for taxpayers and tax practitioners who want to know DOR's official stand on an issue.

Unlike oral advice from the Department, which is advisory only, DOR's public written statements listed below are official statements of DOR policy. Many complicated questions commonly raised by taxpayers are answered in one of the following DOR public written statements:

**Regulations** are DOR's official interpretations of Massachusetts tax statutes. DOR issues regulations after public hearings in order to communicate to taxpayers and their representatives the Department's position on a particular issue or specific provisions of the law. Industry groups, tax professionals and private individuals are encouraged to take part in the regulatory process.

**Technical Information Releases** (TIRs) explain changes in federal or Massachusetts tax laws. TIRs also communicate DOR's response to those law changes or to court decisions affecting federal or state tax laws or administration.

**DOR Directives** are concise statements of position, designed to clarify specific issues that are not covered in any regulation or other public written statement.

**Letter Rulings** are responses to very specific technical questions formally asked by taxpayers, that are not already covered in other public written statements. To obtain guidance on submitting a request for a letter ruling, please call the Rulings and Regulations Bureau at (617) 626-3250. (Because a ruling is based on one taxpayer's specific facts and circumstances, DOR's response is binding only with respect to the taxpayer making the request, although others may consider rulings as nonbinding indications of DOR's position at the time the rulings are issued.)

All DOR public written statements are published in the *MASSTAX Guide*. In addition, if you would like a copy of any Regulation, TIR, Directive or Letter Ruling, you can call the Rulings and Regulations Bureau at (617) 626-3250, and the document will be sent to you.

DOT also publishes a quarterly *Taxpayer Advisory Bulletin (TAB)* designed to keep tax practitioners and taxpayers abreast of the most recent developments in Massachusetts tax law as well as at the Department itself. You can get on the TAB mailing list by calling DOT's Publishing Services Office at (617) 626-2800. Copies of TAB also are available at local libraries. If your library does not receive TAB, ask your librarian to order it by calling Publishing Services; copies will be sent free of charge.

## **I Need Help Resolving an Ongoing Problem with DOT. Is There Someone Who Can Help Me?**

Yes. If you have a problem that began before the current tax year and has not been settled after at least two contacts with the Department, call or write DOT's Problem Resolution Office (PRO). More recent problems should be handled either through the bureau involved or through DOT's Customer Service Bureau (CSB).

Among the types of problems PRO can handle are: payments that have not been credited properly to a taxpayer's account, even after proof of payment; bills that have been issued in error; or miscommunication between bureaus within DOT that has caused your problem to remain unsolved.

Once you contact PRO and your case is accepted, a staff person will be assigned to your case to handle all dealings between you and the Department until your problem is resolved.

If you need special help resolving a problem, please call PRO at (617) 626-3833 or write to the office at P.O. Box 9682, Boston, MA 02114. Correspondence may also be faxed to PRO at (617) 626-3799.

## **What If I Need More Time to File My Tax Return?**

If an individual is unable to meet the income tax filing deadline, DOT may grant an automatic six-month filing extension. Any additional tax you expect to owe should be paid with Form M-4868. In order for this extension to be valid, you must file Form M-4868 and have paid at least 80 percent of your total tax liability for the year by April 15. Those who do not expect to owe any tax may Telefile Form M-4868 by calling (617) 660-2222 or may substitute a copy of U.S. Form 4868 in lieu of the Massachusetts form by writing "For Massachusetts Income Tax Purposes" at the top of DOT's copy of the federal form.

For more information and to obtain forms, please call (617) 887-MDOT or toll-free in Massachusetts 1-800-392-6089. Forms are also available through DOT's Fax on Demand system. To obtain a Form M-4868, please call (617) 887-1900 using the keypad and the handset on your fax machine, and enter code number 305. Many forms are also available through the Internet. (Please see the Resource page for more details).

## **What If I Haven't Filed a Return or Paid a Tax on Time?**

A taxpayer who fails to file a required tax return or fails to pay a tax bill due the Commonwealth faces serious financial and legal sanctions. It is important to note that there is no statute of limitations if a return has not been filed; in other words, you always can be liable for the tax, plus interest and penalties. DOT has in place a procedure that requires a taxpayer to file returns for the year that is currently due plus the six prior years. (Exceptions to this general rule include failure to file returns and pay over trustee taxes that have been collected from third parties but not remitted to the Commonwealth and willful failure to file returns the taxpayer knew or should have known were due.) Please note that the year "currently due" refers to the year of initial contact between DOT and a taxpayer, which may predate the year a taxpayer actually comes forward to file a return. For more information on this issue, please see Technical Information Release 96-2, available by calling DOT's Rulings and Regulations Bureau at (617) 626-3250.

If you discover that you have not filed a return for which you were responsible, you should contact the Department's Customer Service Bureau (CSB) immediately at (617) 887-MDOT or toll-free in Massachusetts at 1-800-392-6089. Depending on the type of return, how overdue it is and the liability involved, CSB can advise you on how to settle your account with the Commonwealth most quickly — before interest and penalty charges mount further.

If you fail to pay a tax when due, interest will be charged at the federal short-term rate (which can change quarterly) plus 4 percentage points, compounded daily. If you wish to obtain information on these rates, please call CSB at (617) 887-MDOR or toll-free in Massachusetts at 1-800-392-6089. Rates also are published each quarter in the *Taxpayer Advisory Bulletin*, which is available by calling DOR's Publishing Services Office at (617) 626-2800. The previous 18 percent simple interest rate applies to all interest accruing before January 1, 1993, even if the underlying liability is assessed after that date.

Under Massachusetts state law, there also are penalties that are applied automatically to late returns or payments. Most often, a late return will generate a late file penalty of 1 percent per month (or fraction thereof) on the unpaid tax; an unpaid balance will generate a ½ percent late pay penalty per month (or fraction thereof). Late return penalties and unpaid balance penalties are each capped at 25 percent of the unpaid tax. Penalties may be waived or abated if the taxpayer can show good cause for the late filing or late payment. However, failure to respond to a DOR assessment may, in some cases, result in a doubling of the assessment.

In addition, interest will accrue on unpaid penalties as well as on unpaid tax. Interest is calculated on unpaid failure-to-file penalties and underpayment of estimated tax penalties starting on the due date through the date of full payment and on unpaid failure-to-pay penalties starting 31 days after the Notice of Assessment and continuing to the date of full payment.

## **What Is the Sequence of Steps DOR Can Take to Collect a Tax That is Due?**

Once a taxpayer receives a Notice of Assessment, he or she has 30 days to pay the debt before a Notice of Demand automatically is issued. If no payment is mailed within 10 days after a Demand is issued, any one of the following actions may occur: the account may be subject to certain automated collections efforts, such as a bank account levy or a wage levy; the account may be referred to DOR's Collections Bureau; or the account may be referred to an outside collection agency. (A taxpayer will be notified at least 30 days before the account is referred to a collection agency.)

As a first step, the Department generally will try to contact a taxpayer either by telephone or letter. This point of contact is another opportunity for a taxpayer to pay his or her liability in full. In certain circumstances, the Department may let a taxpayer pay a liability through a payment agreement that allows installment payments. (Please see the section "If I Do Owe the Tax but Don't Have the Money, Can DOR Give Me More Time to Pay?" for more information on payment agreements.) If a taxpayer is entitled to a refund either from another type of tax or from a different period, that refund may be used to offset the overall liability.

The Department can file a notice of tax lien on a taxpayer's property, or it can levy an asset, such as a bank account or accounts receivable. In either case, DOR will inform taxpayers that a notice of lien has been recorded against their property or that a levy has been served. (A tax lien on a property impedes the sale or transfer of the property until the debt is settled and makes it virtually impossible for the buyer to obtain a mortgage; a levy withdraws money from a taxpayer's assets — for example, from a bank account or from wages or a salary — to satisfy the debt.)

In some cases, usually after all else fails, the Department will be forced to seize assets, such as a cars or a businesses, in order to satisfy the debt. Most taxpayers will receive a certified letter warning them that their property will be seized if a settlement is not reached within 10 days. Sometimes, DOR will not send a warning letter if there is a possibility that the taxpayer may hide or transfer an asset to avoid seizure.

Seizures are generally a matter of public record, and DOR routinely publicizes them.

## **How Are Audits Done?**

Most audits are based on information on a tax return or from DOR's extensive exchange of data with the Internal Revenue Service and other states. Quite often these audits — known as desk audits — can be completed quickly via letters between the Department and the taxpayer.

involved. In other cases, DOR may have to examine a taxpayer's books, records, etc. to verify his or her tax liability. These examinations are known as field audits. Generally speaking, the better your records are, the faster auditors can complete their work.

All notices indicating that a taxpayer is going to be audited are signed by an auditor. You should call the auditor handling your case if you have any questions.

### **How Far Back Can an Audit Go?**

DOR has the legal authority to audit returns for up to three years after they are filed. This period is known as the "open years." A return may be audited for up to six years after being filed for understating by more than 25 percent the gross income that should have been reported on the return. However, if a taxpayer has failed to file a return or has filed a false or fraudulent return, there is no time limit on how far back DOR can go to discover a taxpayer's true liability. Although there is no statute of limitations if a return has not been filed, DOR generally will require a taxpayer to file returns for the year that is currently due plus the six prior years. (Please see the section "What If I Haven't Filed a Return or Paid a Tax on Time?" for more detailed information.)

If there is reason to believe that a taxpayer has filed an incorrect or insufficient return — for example, not submitting all necessary schedules — the taxpayer may be required to submit proof to support the information on the original return or to file an amended return. For their own protection, taxpayers should keep records for as long as possible or for at least six years; the lack of records may make proving your tax liability or verifying a payment difficult.

### **What Happens If I Am Assessed Back Taxes After an Audit?**

If a tax is determined to be due, a Notice of Intention to Assess (NIA) will be sent to you. Taxpayers who do not dispute the findings of an audit are encouraged to pay at this point to avoid any further penalties or interest. Taxpayers who do dispute an audit finding still may want to pay in order to avoid additional penalties and interest in case they ultimately lose their appeals.

At the end of 30 days, a taxpayer who has not paid at the NIA stage will be sent a Notice of Assessment (NOA) indicating the amount due. If the NOA is not paid within 30 days, DOR will pursue full payment using a series of collection tools. (Please see "What Is the Sequence of Steps DOR Can Take to Collect a Tax That Is Due?")

### **I Don't Agree with the Audit Finding. What Do I Do Now?**

If an auditor determines that you owe a tax as a result of a field audit and you don't agree, you can arrange for an exit conference with audit staff. The exit conference is an opportunity for you to gain a thorough understanding of the basis for the proposed assessment and to make sure that the facts of your case are developed as fully as possible. This conference may help you avoid entering into DOR's formal appeals process altogether.

If matters are not resolved at the exit conference — or if an auditor determines that you owe a tax as a result of a desk audit — a Notice of Intention to Assess (NIA) will be issued. (Please see the above section "How Are Audits Done?" for field and desk audit explanation.)

### **How Do I Appeal the NIA?**

If you disagree with the NIA, you can request a hearing with DOR's Appeal and Review Bureau before a bill is issued. The request must be made within 30 days of the issuance date of the NIA. In the case of a desk audit, you have the opportunity to resolve the dispute with desk audit personnel prior to making a formal protest with Appeal and Review. The Appeal and Review Bureau is a separate office within DOR that holds hearings on appeals. Taxpayers must submit a complete and accurate written statement of the facts and legal questions involved to Appeal and Review. Taxpayers also may be requested to submit an Extension of Time to Make An Assessment (Form AR-37) which extends the "open period" for making an assessment.

If after examining your case at Appeal and Review, DOR determines that the tax is owed, you will receive a letter of determination from Appeal and Review explaining the reasons for upholding the tax, and the Department will send you a Notice of Assessment.

## **I Just Received a Bill, but I've Never Been Audited. How Could That Happen?**

Notices of Assessment, or bills, are sent to taxpayers either as the result of an audit, as explained above, or as the result of DOR's routine verification of a taxpayer's records. If there has not been an audit, an assessment of an amount due may have been made because an arithmetic, clerical or other error on the return was detected. In this situation, DOR automatically issues a Notice of Assessment to the taxpayer.

Taxpayers who have questions about a bill should call DOR's Customer Service Bureau at (617) 887-MDOR or toll-free in Massachusetts at 1-800-392-6089.

## **I Have Received a Notice of Assessment, and I Don't Agree with It. How Do I Appeal this Bill?**

If you receive a Notice of Assessment that you want to protest, you must file for an abatement. Since you have been billed, you should remember that if you choose not to pay at this stage, DOR can continue to pursue collection activities — such as imposing levies or placing liens on property — while the appeal is pending. Choosing to pay at this time will not affect the outcome of your appeal.

To file for an abatement, you must fill out and submit an Application for Abatement (Form CA-6) within the time allowed for making an application. The Customer Service Bureau can supply forms and answer your questions, including how much time you have within which to file an application for abatement. For more information, please call the Customer Service Bureau at (617) 887-MDOR or toll-free in Massachusetts at 1-800-392-6089.

Abatement applications are reviewed within the Customer Service Bureau or the Enforcement Division. When you file an abatement application, you also can request a hearing with DOR's Appeal and Review Bureau. Hearing requests must be made in writing directly on Form CA-6. If, after reviewing your case, the Customer Service Bureau or Enforcement Division intends to deny the abatement, a hearing will be held at the Appeal and Review Bureau only if a hearing request was included with the original abatement application or if one was made prior to a final determination by the Customer Service Bureau or Enforcement Division. (Hearing requests regarding penalty issues are held by the Customer Service Bureau.) If after conducting the hearing, Appeal and Review determines that the assessment is proper, it will issue a letter explaining its determination, and the abatement will be denied. **Please note:** Taxpayers who already have appealed a proposed assessment to the Appeal and Review Bureau following an audit and who are petitioning Appeal and Review for a second hearing will be expected to submit new evidence and/or new arguments concerning the interpretation and application of the law that were not presented at the previous hearing.

If your abatement is granted and you already have paid the bill, your money will be returned to you along with any accumulated interest.

## **How Do I Appeal an Abatement Decision With Which I Don't Agree?**

If your abatement application is denied, you have the right to appeal your case directly to the Appellate Tax Board (ATB) of the Commonwealth of Massachusetts. The ATB is an independent, quasi-judicial administrative board that hears appeals of abatement applications after they have been denied in whole or in part by DOR. Please call the ATB at (617) 727-3100 for more information.

## **If I Want to Appeal a Decision, Do I First Have to Pay the Amount that DOR Says I Owe?**

Taxpayers are not required to pay a liability before filing any kind of appeal with DOR, and whether the liability is paid or not will have no impact on how DOR treats that appeal. Under current law, a taxpayer does not need to pay before the Appellate Tax Board can hear his or her case.

Filing an appeal, however, will not stop DOR from pursuing collection activities. Many taxpayers will pay a disputed tax in order to prevent interest and penalty charges from mounting and to keep DOR from taking any enforcement action.

### **Can I Have Someone Else Represent Me in My Appeal?**

Yes. By filing a Power of Attorney (Form M-2848), you can be represented by a tax practitioner, friend, family member or whomever you choose. Once you have delegated this authority, the person you choose can represent you through correspondence, telephone calls and at any hearing or meeting with the Department.

If, however, you are filing an appeal with the Appellate Tax Board, you must either represent yourself or have an attorney do so.

### **How Can I Find Someone to Represent Me in My Appeal?**

DOR is ready to assist taxpayers through the appeals process by explaining what steps to take. There are also many well-trained and dedicated tax practitioners in Massachusetts who can guide clients through their dealings with the Department. (The term "tax practitioners" generally refers to tax lawyers, certified public accountants [CPAs], public accountants, accountants and enrolled agents.) It is a good idea to find a practitioner who is familiar with Massachusetts tax matters since some specialize in federal tax law and administration, which can differ significantly from state practice.

Tax practitioners are listed in the yellow pages under "Accountants," "Lawyers" and "Tax Return Preparation," or you can contact one of the professional associations for a referral. Among the larger state-wide organizations are: the Boston Bar Association, the Massachusetts Bar Association, the Massachusetts Society of Certified Public Accountants, the Massachusetts Society of Public Accountants, the Massachusetts Society of Enrolled Agents and the National Society of Enrolled Agents. There are also similar organizations based in many communities and regional areas of the Commonwealth that can be helpful. Services are available for people with limited incomes as well, and the associations above can make an appropriate referral.

### **If I Am Right and I Get My Money Back, Am I Entitled to Interest on What I Overpaid?**

Yes. If a taxpayer wins an appeal, DOR will pay interest on any money it has been holding. Massachusetts law sets the same interest rate on overpaid taxes that it charges on overdue taxes. (Please see "What If I Haven't Filed a Return or Paid a Tax on Time?" for more information on interest rates.)

### **If I Do Owe the Tax but Don't Have the Money, Can DOR Give Me More Time to Pay?**

In cases where taxpayers do not have enough money or other assets to settle their debt immediately, DOR can grant them additional time. Taxpayers can enter into payment agreements with DOR that allow them to fulfill their total responsibility through installment payments. Generally, these payment agreements are not allowed to exceed 12 months. In certain instances, however, a more flexible payment plan can be arranged. The Department will refuse to allow a payment agreement if a taxpayer has a history of delinquency, if a taxpayer has the resources to settle the debt immediately or if the agreement jeopardizes the ultimate collection of the tax due.

If you want to determine whether you can enter into a payment agreement, you can begin by talking to the person in the Department who is handling your case. Or, if you have received a bill, you should contact the Customer Service Bureau at (617) 887-MDOR or toll-free in Massachusetts at 1-800-392-6089. Most taxpayers who owe less than \$5,000 can call DOR's Interactive Voice Response system 24 hours a day, at the numbers listed above, to apply for a payment agreement.

# Department of Revenue Resources

## DOR Locations in Massachusetts

100 Cambridge Street

**Boston** 02204

(617) 887-MDOR

218 S. Main Street

**Fall River** 02721

(508) 678-2844

1019 Iyanough Road

**Hyannis** 02601

(508) 771-2414

333 East Street

**Pittsfield** 01201

(413) 499-2206

436 Dwight Street

**Springfield** 01103

(413) 784-1000

40 Southbridge Street

**Worcester** 01608

(508) 792-7300

## DOR Locations throughout the Country

999 Peachtree St., Suite 1640

**Atlanta**, GA 30309

(404) 874-2922

101 South First St., 4th Floor

**Burbank**, CA 91502

(818) 840-9059

150 N. Michigan Ave., Suite 2035

**Chicago**, IL 60601

(312) 899-9040

1201 Louisiana St., Suite 3322

**Houston**, TX 77002

(713) 650-0390

## New York office relocating

Please call:

(212) 768-2750

355 Fifth Ave., Suite 1400

**Pittsburgh**, PA 15222

(412) 281-2776

## What kind of help is available

The instructions in the Department of Revenue's tax forms should provide answers to most taxpayer questions. If you have questions about completing your Massachusetts tax form, you can call or visit any of the Department of Revenue offices listed on this page Monday through Friday, between 8:45 a.m. and 5:00 p.m. Taxpayers also can call TaxTalk, the Department's 24-hour automated system of recorded tax help, at the main information lines listed below. In addition, DOR issues a number of useful publications on various state tax issues. These publications include: tax-specific guides written in question and answer format such as the *Guide to Filing Your 1997 Massachusetts Income Taxes*; a quarterly newsletter, the *Taxpayer Advisory Bulletin*, with updates on legislative, legal and Departmental decisions; and public written statements, such as Regulations, Technical Information Releases (TIRs), Directives and Letter Rulings.

## Where to get forms and publications



During the income tax filing season, you can pick up Massachusetts personal income tax forms in many convenient locations, including post offices, libraries, and major city or town halls; any DOR office listed on this page; or 16 IRS district offices across the state.



To obtain Massachusetts forms and publications by phone, call the Department's main information lines at (617) 887-MDOR or toll-free in Massachusetts at 1-800-392-6089. Please note that many forms and publications are available 24 hours a day by calling the Department's automated forms request system at the numbers listed above.



Many Massachusetts tax forms and publications are available via the DOR website. The address for the Department's website is [www.state.ma.us/dor](http://www.state.ma.us/dor).



Certain forms and publications can be obtained through DOR's Fax on Demand system. For a complete Fax on Demand menu, please call (617) 887-1900 using the handset and the keypad on your fax machine.

**Note:** Due to imaging requirements, Forms 1, 1-NR/PY and M-4868 available through the DOR website and Fax on Demand system are for informational purposes only. Only an original or approved computer-generated version of these forms will be accepted for filing purposes.

## For general tax information

Please call (617) 887-MDOR or toll-free in Massachusetts 1-800-392-6089. These main information lines can provide assistance with:

- abatements
- bills and payments
- business registration
- business taxes
- corporate excise
- corporate trusts
- estate taxes
- estimated taxes
- fiduciary taxes
- nonresident information
- partnerships
- personal income taxes
- refunds
- withholding

## For help in one of the following specific areas

Please call the number listed below.

- Certificates of Good Standing (617) 887-6550
- Federal changes (617) 621-5332
- Teletype (TTY) (617) 887-6140
- Vision-impaired taxpayers are welcome to make an appointment at any DOR office listed on this page to receive assistance in preparing their tax forms.
- Upon request, this publication is available in an alternative format.
- Installment sales (617) 621-5256
- Small Business Workshop (617) 887-6100

To report allegations of suspected misconduct or impropriety involving Department of Revenue employees, please call the Inspectional Services Division's Integrity Hot Line at 1-800-568-0085 or write to PO Box 6040, Boston, MA 02114.

**Massachusetts**

**Department**

**of Revenue**

100 Cambridge Street

Boston, Massachusetts 02114

## From the Commissioner

Dear Taxpayer,

The Department of Revenue is committed to enforcing the tax laws of the Commonwealth fairly, impartially and consistently. Taxpayers have significant protections under the law which are outlined in your Taxpayer Bill of Rights below:

- DOR must be objective, impartial, professional and ethical in its administration of the tax laws; any information that you as a taxpayer provide to the Department will be handled with the utmost confidentiality and professionalism.
- DOR must maintain a Problem Resolution Office and an Office of Internal Affairs to safeguard taxpayers' rights.
- DOR may not establish or enforce individual collection goals or collection quotas for its employees.
- If you are unable to satisfy a tax liability in full, the Commissioner of Revenue may enter into a payment agreement if the Commissioner determines it will facilitate collection of the tax.
- You may obtain representation at any point in your dealings with DOR.
- You are entitled to appeal any DOR decision regarding your tax liability. DOR is obligated to make abatement decisions as promptly as possible and to issue any refunds resulting from abatement decisions within 30 days of such decisions.
- You will not be subject to statutory penalties if you make a mistake because you relied on written advice from DOR representatives acting in their official capacities.

You may obtain *A Guide to the Department of Revenue: Your Taxpayer Bill of Rights* by calling our main information lines at 1-800-392-6089, or on our website at [www.state.ma.us/dor](http://www.state.ma.us/dor).

Sincerely,



Mitchell Adams  
Commissioner